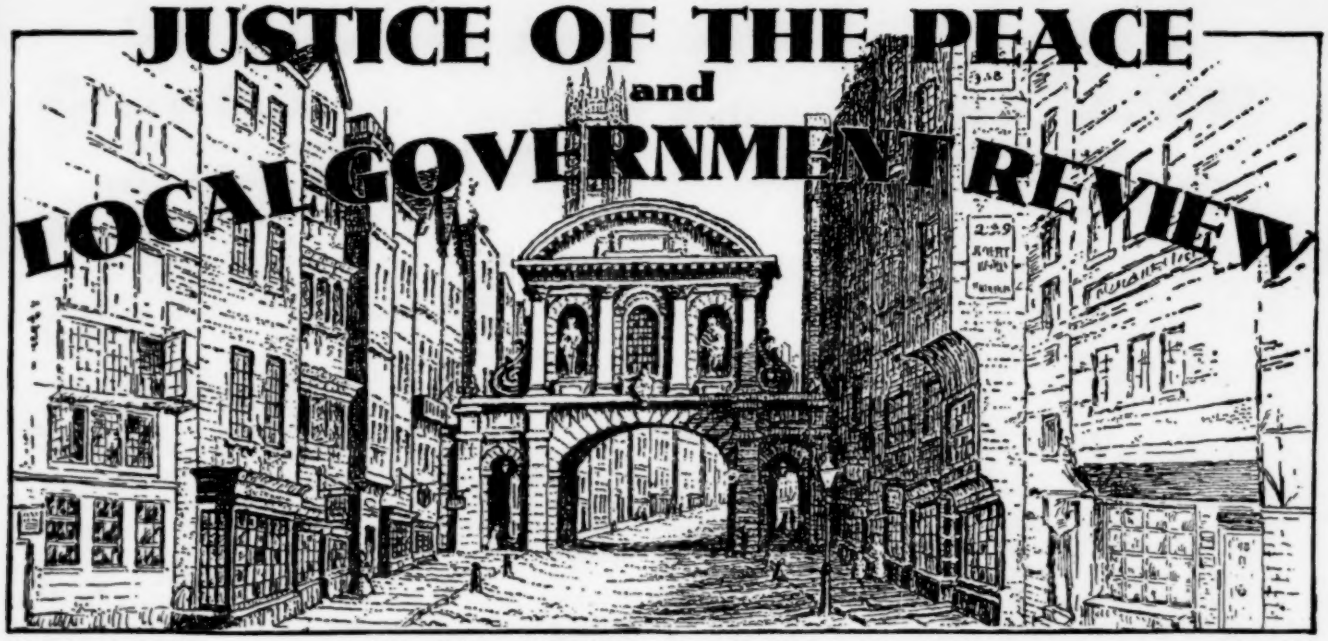

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Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Classified Advertisements, 24 words 6s. (each additional line 1s. 6d.) Box Number, 1s. extra *Latest time for receipt* 10 *a.m. Thursday*

Published by JUSTICE OF THE PEACE LTD., Little London, Chichester, Sussex
Telephone : CHICHESTER 3637 (P.B.E.) *Telegraphic Address :* JUSLOCGOV, CHICHESTER

NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note :* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

SITUATIONS VACANT

LONDON Magistrates' Courts Committee invite applications for the post of General Clerk (Male) at the Hampstead Magistrates' Court. Previous experience in Justices' Clerk's office not necessary but shorthand and typewriting is essential. Salary £416 per annum. Appointment superannuable and subject to medical examination. Written application, with copies of two testimonials, to W. EWART PRICE, Clerk to the Justices, Magistrates' Court, Downshire Hill, Hampstead, London, N.W.3.

EAST KENT MAGISTRATES' COURTS COMMITTEE require full-time Justices' Clerk for the Borough of Folkestone and the Hythe and Romney Marsh Petty Sessional Division. Total population of the two Divisions 69,648. Salary within the appropriate range laid down by the Award of the Board of Arbitration, plus £100 for acting for two Divisions. Applications, stating age, qualifications and experience, together with the names of two referees, to Clerk of the Magistrates' Courts Committee, County Hall, Maidstone, by March 27, 1954.

INQUIRIES

YORKSHIRE DETECTIVE BUREAU (T. E. Hoyland, Ex-Detective Sergeant). Member of The Association of British Detectives, World Secret Service Association and Associated American Detective Agencies. DIVORCE — OBSERVATIONS — ENQUIRIES—Civil and Criminal investigations anywhere. Over 1,000 Agents. Over 27 years C.I.D. and Private Detective Experience at your Service. Empire House, 10, Piccadilly, Bradford. Tel. 25129. (After office hours, 26823.) Established 1945.

PARKINSON & CO., East Boldon, Co. Durham. Private and Commercial Investigators. Instructions accepted from Solicitors only. Tel. : Boldon 7301. Available day and night.

Amended Advertisement

BOROUGH OF HORNSEY

ASSISTANT Solicitor required for Town Clerk's Department. The appointment will be made within Grade A.P.T. VIII (£785-£860), plus London Weighting, according to experience and ability. Further particulars and forms of application from Town Clerk, Town Hall, Crouch End, N.8, to whom applications are to be returned by March 31, 1954.

BOROUGH OF WIMBLEDON

Appointment of Town Clerk

APPLICATIONS are invited from Solicitors having considerable Local Government experience for the appointment of Town Clerk from October 1, 1954.

The commencing salary will be £1,750 per annum rising by annual increments of £50 to £2,000 per annum. The Recommendations regarding Salary and Conditions of Service of the Joint Negotiating Committee for Town Clerks will apply to the appointment. The Town Clerk is Registration Officer and Acting Returning Officer for the Wimbledon Constituency. The appointment is subject to medical examination and to termination by three months' notice.

Applications, giving particulars of age, qualifications and experience, with the names and addresses of two persons to whom reference can be made, must reach the undersigned not later than first post on Monday, April 12, 1954.

EDWIN M. NEAVE,
Town Clerk.

Town Hall,
Wimbledon, S.W.19.
February 25, 1954.

Amended Advertisement.

CITY OF PLYMOUTH MAGISTRATES' COURTS COMMITTEE

Appointment of Joint Second Assistant

APPLICATIONS are invited for the above appointment. It is essential that applicants should possess considerable experience and be fully competent to act in Court without supervision, if called upon. Commencing salary will be fixed between £555 and £585 according to experience, and thereafter will be in accordance with Grade V of the A.P. & T. Division of the National Joint Council Scales. The appointment will be superannuable and the successful applicant will be required to pass a medical examination.

Applications, stating age, present position and experience, together with copies of three recent testimonials, should be sent to the undersigned not later than March 22, 1954.

EDWARD FOULKES,
Clerk to the Magistrates' Courts Committee.

Greenbank,
Plymouth.

COUNTY BOROUGH OF EAST HAM

Magistrates' Courts Committee

Appointment of Justice's Clerk

APPLICATIONS are invited from persons qualified in accordance with the Justice of the Peace Act, 1949, for appointment as whole-time Clerk to the Justices.

Candidates should have had considerable experience in all branches of the work of Magistrates' Courts, including the keeping of accounts.

Salary £1,600×£50—£1,850.

Subject to the approval of the Home Secretary, the holder of the office will act as Secretary to the Licensing Planning Committee, for which an additional salary of £150 per annum is payable at present.

Forms of application (returnable March 27, 1954) from the Chairman of the Magistrates' Courts Committee, Town Hall, East Ham, E.6.

COUNTY COUNCIL OF MIDDLESEX

Appointment of Clerk of the County Council

APPLICATIONS are invited from Solicitors with extensive local government and legal experience for the office of Clerk of the County Council.

The salary proposed for the appointment will be on the scale £4,500 by £100 to £5,000 per annum, inclusive of all personal expenses. All fees and costs payable to the Clerk (other than emoluments as Acting Returning Officer) shall be accounted for and paid into the County Fund.

The successful applicant will be required to pass a medical examination.

Applications, giving details of age, qualifications, experience and other relevant information, together with names and addresses of three referees, must be received by me, marked " Ref. C," not later than April 10, 1954.

Canvassing, directly or indirectly, will be a disqualification.

CLIFFORD RADCLIFFE,
Clerk of the County Council.

Middlesex Guildhall,
Westminster, S.W.1.

COUNTY BOROUGH OF CROYDON

Appointment of Full-time Male Probation Officer

APPLICATIONS are invited for the appointment of Full-time Male Probation Officer.

The appointment will be subject to the Probation Rules, 1949 to 1952, and the salary will be in accordance with the scale prescribed by such Rules. London Allowance is payable.

The successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with not more than two recent testimonials, must reach the undersigned not later than March 31, 1954.

A. J. CHISLETT,
Secretary of the Probation Committee.

Magistrates' Clerk's Office,
Town Hall,
Croydon.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

VOL. CXVIII. No. 11 LONDON : SATURDAY, MARCH 13, 1954

Pages 161-176 Offices : Little London, Chichester, Sussex. [Registered at the General Post Office as a Newspaper]

Price 2s. 3d. (including Reports)
Price 1s. 3d. (without Reports)

NOTES of the WEEK

A Case on Matrimonial Cruelty

If a woman is unhappy in her married life and her health is suffering, and it looks as if her husband was largely to blame, the magistrates may be tempted to grant her an order on the ground of persistent cruelty without sufficient consideration of the decisions of the superior courts on what constitutes cruelty. The tendency to say that two people who are unhappy together had better be separated by law cannot be allowed to prevail in the courts.

Karminski, J., delivered an important judgment in *Eastland* v. *Eastland* (*The Times*, February 25), when he dismissed a wife's petition on the ground of alleged cruelty. There was no allegation of violence, and the principal ground of complaint was that the husband had consistently refused to make sufficient allowance for household expenses, ran into debt, and left his wife to settle with creditors.

The learned judge held that the wife's health had been affected by the circumstances of her marriage, and he described the husband, who did not appear, as shiftless and impractical ; his conduct had been worrying. Great care must be taken not to extend the area of legal cruelty, and no case had been cited which rested solely on a charge of financial meanness, although it had been a factor in *Simpson* v. *Simpson* [1951] 1 All E.R. 955 ; 115 J.P. 286 ; and *Jamieson* v. *Jamieson* [1952] 1 All E.R. 875 ; 116 J.P. 226. This was not a case in which it could be said the husband desired to injure his wife, or had " directed " the conduct at her. His conduct was negative.

The learned judge expressed his sympathy with the wife, but considered that he could not hold that cruelty had been proved. In the same way, magistrates may sometimes feel sympathy with an applicant for relief, but must come to the conclusion that she is not entitled to it in the light of the decided cases, and must accordingly decline to make an order.

Proof of Adultery

It seems clear from the decision in *Ginesi* v. *Ginesi* [1947] 2 All E.R. 438 ; 111 J.P. 521, that the standard of proof requisite to establish a charge of adultery is the same as that required in a criminal case, for although some doubt was expressed about the correctness of that decision in a later case, it has since been followed and adopted as sound. If there remained any doubt it would be dispelled by the decision of the Court of Appeal in *Galler* v. *Galler* (*The Times*, February 5).

The facts alleged were simple. The wife had left her husband, and as there were three young children he engaged a nurse. The wife petitioned for divorce on the ground of her husband's adultery with the nurse. The husband, who had also petitioned for divorce, on the ground of desertion, denied the allegations. In the wife's answer to this she alleged constructive desertion and cruelty, as well as adultery. The only evidence of the adultery was that of the nurse, who said it had occurred repeatedly. The Commissioner granted the wife a decree.

The Court of Appeal ordered a new trial. Hodson, L.J., who delivered the leading judgment, observed that in a case of alleged adultery where the evidence of a person who was said to have committed adultery with the respondent was relied upon it was necessary to treat it as the evidence of an accomplice, as in a criminal case. It was not unlawful, but it was unwise, to act upon such evidence unless it was corroborated. It was easy to make such a charge but often very difficult to rebut. In the present case, the Commissioner had apparently not directed himself on this point as a jury would have had to be directed, and therefore there would have to be a new trial on the issue of adultery.

On the question of treating a participant in adultery as an accomplice, *see Fairman* v. *Fairman* [1949] 1 All E.R. 935 ; 113 J.P. 275.

The Advocate's Art

We call attention to a new edition which we have just published of *Advice on Advocacy in the Lower Courts*, by Dr. F. J. O. Coddington, who had experience for sixteen years as a stipendiary magistrate, after twenty-one years active practice at the bar. We hope this will be found equally suitable for study by bar students (and members of the bar) and by solicitors. Dr. Coddington limits his title to the " lower courts " because he addresses his advice especially to solicitors, who do not possess the opportunities open to the bar for interchange of views among themselves elsewhere than in court, and are not subjected to quite so marked an " atmosphere ". He, and we, are indebted to Lord Justice Birkett, for a preface setting forth the relation between advocacy and a general, especially literary, education. Dr. Coddington's own pages are a blend of the severely practical and the ethical considerations which underlie the advocate's art as understood in England. We feel justified in claiming that there is not a paragraph which is undeserving of perusal, by those who desire to succeed on the forensic side of the profession.

Bullock Stealing

In connexion with our Note of the Week at p. 114, *ante*, on the subject of Bull Racing, we are indebted to the town clerk and borough librarian of Bethnal Green for information from local sources—which dispose of the suggestion we light-heartedly threw out, of a link between the Mile End Road and Minoan civilization, substituting a thoroughly English, but still picturesque, explanation. The librarian's information appears to be derived from an article contributed to a London paper in 1886. According to this, on Sunday evenings in the 1820's

farmers and merchants were in the habit after 10 o'clock of driving cattle from the outskirts of London to Smithfield by way of the Mile End Road. As they passed through Bethnal Green, trouble would start. There would be a rush of local hooligans (weavers out of employment and others), and a sportive-looking bullock would be isolated from the drove and driven away. The merchants presumably accepted such contingencies as an occupational risk, for they were hopelessly outnumbered, and there was no police force in those days. The bull would spend Sunday night in a garden or back yard ; on the Monday morning it was set free, and the sport would start.

The hunt was formally announced to all and sundry by the ringing of a bell, which hung on the high roof of a house at the rear of what was then the workhouse. It had been bought by public subscriptions for this very purpose, and was known as the Bull Bell. Its ringing on the Monday morning was the signal for general rejoicing and excitement. The neighbourhood rang with shouts of " Bull out ! Bull out ! " Work stopped. Looms stood idle. All the shops closed. Children stayed away from school. For this was " Bullocking Day," the great event of the week ; and by custom and tradition Bullocking Day was a holiday.

The excited crowds and their dogs goaded the bull and hunted him far and wide. The sport went on well into the afternoon. The animal, frightened or angered, gored whenever it was given a chance ; and it was thought highly entertaining when one frenzied creature tried to toss a heap of gravel in the Whitechapel Road. The proceedings always ended with the bullock collapsing from exhaustion, whereupon he was killed. Our forefathers were not squeamish. It is almost a pleasure to record that the sport was not without its human casualties : never a Monday passed without some gladiators being taken to hospital. But it is to be hoped the children were kept indoors. On one occasion a bullock was hunted into the churchyard of St. Matthew's during divine service, to the consternation of the worshippers.

With the coming of " The New Police " the custom of Bullocking Day gradually died out.

Vengeance of Jenny's Case

In this Note we are not concerned with the serious questions of policy upon homosexuality, which are now troubling the public mind. We are merely pleading that discussion, which can no longer be avoided, and the reporting of cases which (despite well intended protests) is essential to intelligent discussion, shall be conducted in intelligent and intelligible English. We have commented from time to time upon the incorrigible tendency of modern speech, to put an equivocal mask on what is unpleasant, or even what is thought to be slightly unrefined. For generations Mistress Quickly's " Never name her, child " might have been an editorial injunction, and indeed a maxim to be observed orally as well as by writers for publication. So the inn turned into a hotel, and the tavern became the public house, an apt phrase, though there are other houses not less public, but one which (being perhaps thought vulgar) is in process of being now changed into " the local." This is merely silly, but the process, at least when there is no risk of misunderstanding, has no worse result than weakening the language. Often, as with " public house," what began life as an euphemism has in its turn lost favour : privy and closet so began, and these words and their successors illustrate how legal confusion follows on would-be refinement, until it is almost forgotten that " lavatory " means a place for washing, and even this word tends to be replaced by " toilet ". Developments in this last context are, perhaps, no worse than nuisances, but the embargo which some undiscoverable censor seems to have imposed in regard to " homosexuality " has already darkened counsel gravely. Even this inconvenient word of seven syllables looks like losing half its meaning—possibly some suggestion of a link with the male sex originated in a dim, unlettered, notion that its first two syllables are of Latin derivation. Let it be granted that the word used in the statute book, and not unknown in the speech of common persons, is now regarded as unprintable elsewhere than in an indictment or, perhaps, a law report. Are we all so timid that the accepted equivalent from Old Testament topography cannot be used, and is the language so poor as to compel almost every newspaper to inform its readers that a man has denied committing a serious offence, whereupon the prosecution has accepted a plea of guilty on a charge of gross indecency ? We do not forget that children read the newspapers, and can embarrass adults by asking " What is sodomy ? " But we should have thought it scarcely less embarrassing to be asked " What is this ' serious offence ' ? ", and it is surely the nemesis of the namby pamby when the press leads young people to suppose that gross indecency is not a serious offence.

Can Reform be Forced ?

A letter from Dr. W. A. Robson in *The Times* of March 1 would throw upon the Government and Parliament the immediate burden, which must be theirs in the last resort, of finding a solution to the problem of reforming local government and then imposing that solution on all parties. By way of precedent, Dr. Robson mentions abolition of boards of guardians by the Local Government Act, 1929. This, however, does not carry matters far. Boards of guardians, it is true, still had their supporters, and the Government was obliged to admit the compromise of " guardians committees," but their position had been undermined by sapping and trenching, as well as challenged by frontal assault, for many years, and by 1929 they were not formidable enemies, for a Government with a secure parliamentary majority. The suggestion now made is altogether different. There is on the one side the memorandum put forth by all associations except the Association of Municipal Corporations, a memorandum which pledges its signatories not to make separate peace. On the other side, the boroughs, despite divergencies of interest between the large and small, stand committed to solutions which the others would regard as fatal. We have always hoped, and urged, that solutions would be agreed : even the letter in *The Times* from Dr. Robson, whose " local government " bias is so well-known, regards it as a poor example for the world, that English local governing bodies of different types should go on squabbling until Parliament ends by enforcing peace among them. At present, the omens are not good ; each of the contestants has taken a stand from which it declares it will not move, and those stands are incompatible.

But does anybody expect a Government formed from either of the Parties to run the risk of trying to overrule either the boroughs or the counties (with their allies), so long as its majority in the House of Commons is of the order of thirty, more or less ? Such a majority could fall away under local pressure—say fifteen dissentient members of the majority party in the Commons, counting thirty on a division, whichever party this was. No ; we still think that (excluding the contingency of a general election with the less probable contingency of a political landslide one way or the other) the best hope, albeit no great hope, lies in continued discussion within the world of local government.

A Superfluous Election

The Western Mail reports an amusing incident in the field of local elections. A casual vacancy having occurred in a parish council, an election was held which resulted in a tie and had to be decided by lot. What had been overlooked was the power conferred by the Representation of the People Act, 1949, on the council to co-opt to fill a casual vacancy. The parish councillors apparently objected to pay for an unnecessary election. In the words of Ingoldsby, " nobody seemed one penny the worse ", except the clerk to the district council, who, considering it his responsibility because the mistake apparently arose in his department (he was in fact away at the time), has announced that he will pay the expenses, and the officials who acted as returning officer and poll clerks will not ask for fees. As to those electors who were at the trouble of going to the polling station in vain, perhaps they will regard it all as a pleasant comedy of errors, and say no more about it. After all, many people love the excitement of an election.

Planning Finance

Local government officials who have to advise on planning (and, we suppose, planners behind the curtains of Whitehall) have for more than a year been ploughing a difficult furrow in the uncertain sands of financial policy, waiting for Parliament to implement the White Paper of 1952, Cmd. 8699. The legal advisers and surveyors of private owners and developers have been equally, or worse, affected by uncertainty ; even assuming that, given a long enough lease of life, the present government and Parliament would carry out the intentions then expressed, could they rely upon a long enough interval before the often prophesied contingency of a dissolution? At length, the Government have introduced a Bill to carry forward the alterations (in the financial methods of 1947) which were foreshadowed by the White Paper and left avowedly unfinished by the Town and Country Planning Act, 1953. The new Bill, just available when this note goes to press, is long and immensely complicated. This was to be expected, by anybody who remembers the White Paper ; the broadcast statement of November, 1952, and the Ministry of Housing and Local Government's circular of July 2, 1953. Technically speaking, uncertainty about the advice that can be given will remain until the new Bill passes into law—an unhealthy interval approaching two years from the announcements made in 1952. But, at any rate, those who are involved in the maze may now hope that the outlet is somewhere round the corner.

Complexions for Cabs

The Birmingham Corporation Bill of the present session has attracted public notice because six of its clauses were attacked, and five of the six defeated, by the procedure taken over in s. 255 of the Local Government Act, 1933, from the Borough Funds Acts, 1872 and 1903. These clauses were, however, not the whole Bill, and the promoters are going ahead with the remainder. Among those to be considered in due course by the parliamentary committees is a provision making it an offence to display within the city, on a vehicle which is not a hackney carriage licensed as such by the council, any sign likely to lead to its being mistaken for a hackney carriage. At first sight, the reader, especially if he lives in London or some large provincial town, will probably look upon this as an innocent provision, helpful to the public and not unreasonable for the cab owner or cab driver. He will have in mind the words " for hire " now displayed, compulsorily, in the canopy of every London motor cab, or the words " for public hire " which Manchester prefers, or, may be, some equivalent elsewhere. If the local authority has under the Town Police Clauses Act, 1847, made a byelaw requiring that all hackney carriages shall be " furnished or provided " with a sign of this sort, well and good. But this is quite exceptional. In most towns the cab owner and driver are left to distinguish their vehicles in any way they please, apart from the number plate required by s. 51 of the Act of 1847—and imitation of that plate, which seems (anyhow) unlikely, automatically turns the vehicle into a hackney carriage, as defined in s. 38 of the same Act. The proposal is probably directed towards meeting two complaints which have been made elsewhere. The first comes from owners and drivers of the genuine cabs, who allege that vehicles that can be mistaken for cabs are to be found—especially after dusk, soliciting custom. For this, s. 45 of the Town Police Clauses Act, 1847, already provides a remedy, and we doubt whether a new legal provision, aimed at the superficial appearance of the vehicle, would be of much value.

What is the Mischief ?

The second complaint seems to us to have more substance. This is that a vehicle which is not a cab will stand with a view to soliciting custom in a place such as the car park of a sports ground, where it is not illegal for a vehicle not licensed as a hackney carriage to be so used. The potential passenger enters a vehicle which has the general appearance of a cab, and names his destination, only to be told when his journey ends that, because the vehicle is not licensed, the table of fares for hackney carriages does not apply. In law the position then arising is quite simple ; in practice, it can be embarrassing. A variant of which complaint has frequently been made is when a customer of a hotel or patron of a theatre asks the doorkeeper to call a cab (or " taxi "), and finds, as in the last case, when he comes to his destination that he has inadvertently hired a vehicle to which the table of fares does not apply. Once more, the law is simple, but the position apt to be exasperating—typically, the passenger has hired the vehicle in order to catch a train, and cannot stop to argue. In both the last mentioned cases (it is said) the initial error would not have arisen but for the resemblance of the vehicle to a cab. The remedy is, however, not so simple as the Birmingham clause now under discussion might suggest. The great majority of provincial cabs are not required by local authorities to show distinctive markings. They are not, indeed, in most towns required to carry taximeters. They are a miscellaneous collection of ordinary motor-cars.

In some towns, on the other hand, a large proportion of the cabs in use belong to substantial firms who paint their vehicles in a uniform design ; nobody, we imagine, would suggest that such a firm should be forbidden to put the same paint upon those vehicles which are not (as well as those which are) licensed under the Act of 1847. Again, it has been very common for firms owning cars let out on hire to be incorporated under a trade name suggestive of their business : " Teletax " is an example taken from the law reports. May a company's name, taken and used legitimately, not be painted on its vehicles, if that name embodies, or could be thought to suggest, some variant of the words " cab " and " taxicab," or the half-word " taxi " ? The cab trade no doubt regards all names of this sort with dislike, suspecting that they have been adopted for the purpose of deceit, but it would be unfair to assume that the suspicion is well founded (especially in regard to the many local variations upon the " taxi " root), since the expression " taxi " has come to be used in daily speech as meaning virtually any and every car let out to hire irrespective, even, of its being fitted with a taximeter.

THE EXECUTION OF MEANS INQUIRY WARRANTS

We have seen it suggested that whereas under the Money Payments (Justices Procedure) Act, 1935, warrants issued to compel the appearance of a person for the purposes of an inquiry under the Act could not be executed on a Sunday and must be in the possession of the arresting officer at the time of the arrest, the wording of the appropriate sections in the Magistrates' Courts Act, 1952, has put such warrants, in these two respects, in the same position as if they were warrants for the arrest of persons charged with an offence. We should like to suggest that it is by no means certain that this is the correct point of view.

We start our consideration of the matter on the basis that :

(*a*) The Magistrates' Courts Act, 1952, is a consolidating Act, effecting only minor amendments and improvements in the law, and

(*b*) To add to the powers of arrest in any respect is an infringement of the liberty of the subject, and is not what would normally be described as a *minor* amendment and improvement in the law.

In our view, therefore, it has to be shown beyond all doubt that the change has been effected and that the relevant words cannot reasonably be read in any other sense.

The relevant provision in the 1935 Act in s. 11 (2) was as follows : " where a warrant is issued under this section . . . the warrant may be executed in the like manner, and the like proceedings may be taken with a view to the execution thereof, in in any part of the United Kingdom, as if it had been a warrant of arrest issued under s. 2 of the Summary Jurisdiction Act, 1848."

Section 2 of the 1848 Act provided for the issue of warrants for the arrest of persons who failed to appear in answer to summonses which had been duly served, whether in a criminal or a civil matter other than a civil debt, and of persons charged with offences even though no summons had been issued.

Section 44 of the Criminal Justice Act, 1925, provided that " any warrant lawfully issued . . . for apprehending any person charged with any offence may be executed by any constable *at any time* notwithstanding that the warrant is not in his possession at that time. . . ." The words " at any time " were considered to justify the execution of such warrants on a Sunday. The rest of the section is clear beyond doubt.

The argument put forward is that as warrants issued under s. 2 of the 1848 Act could be warrants for the arrest either of persons charged with offences or of those answering certain civil complaints the wording of s. 11 (2) of the 1935 Act could not possibly have imported the provisions of s. 44 of the 1925 Act which referred in terms only to warrants for apprehending persons charged with offences. So far, so good.

We have next to look at the corresponding provisions in the 1952 Act. First comes s. 70 (4) of that Act : " A warrant issued under this section may be executed in like manner, and the like proceedings may be taken with a view to its execution, in any part of the United Kingdom, as if it has been issued under s. 15 of this Act." We think that the crux of the matter lies here. Is this subsection intended to do more than make possible the execution of such warrants (*i.e.*, means inquiry warrants) in any part of the United Kingdom as opposed to confining their scope to England and Wales ?

We must refer next to s. 15. This regulates the procedure on the summary trial of an information when the accused fails to appear in answer to a summons, and it provides, subject to its requirements, that a warrant may be issued to compel the defendant's appearance. Clearly, therefore, any warrant issued under s. 15 is a warrant to arrest a person charged with an offence, but it cannot be issued except when that person has failed to answer a summons which has been duly served.

Now let us turn to s. 103 of the same Act. This applies the provisions of ss. 12 to 14 of the Indictable Offences Act, 1848, to certain warrants of arrest issued under s. 1 of the 1952 Act, to those issued under s. 15 or s. 77 of the Act, and to warrants of commitment issued under the Act. The provisions of the 1848 Act are those relating, *inter alia*, to the execution in Scotland, Ireland, the Isle of Man and the Channel Islands of warrants of arrest for the offences referred to in the said ss. 12 to 14. Clearly, therefore, s. 70 (4) of the 1952 Act makes those same provisions of the 1848 Act apply, so far as the United Kingdom is concerned, to means inquiry warrants.

The next link in the chain of argument is s. 102 of the 1952 Act. This must, we think, be considered in detail. It is as follows :

102. (1) A warrant of arrest issued by a justice of the peace shall remain in force until it is executed or withdrawn.

(2) A warrant of arrest, warrant of commitment, warrant of distress or search warrant issued by a justice of the peace may be executed anywhere in England and Wales by any person to whom it is directed or by any constable acting within his police area.

(3) The issue or execution of any warrant under this Act for the arrest of a person charged with an offence, or of a search warrant, shall be as effectual on Sunday as on any other day.

(4) A warrant to arrest a person charged with an offence may be executed by a constable notwithstanding that it is not in his possession at the time ; but the warrant shall, on the demand of the person arrested, be shown to him as soon as practicable.

As we understand it the argument referred to at the beginning of this article relies on the fact that as any warrant issued under s. 15 of the 1952 Act must be a warrant to arrest a person charged with an offence the effect of s. 70 (4) is to bring in the provisions not only of s. 103 but also of s. 102 (3) and s. 102 (4). We think this requires further consideration. Section 102 (1) and (2) clearly apply in terms to warrants issued under s. 70, because such warrants are warrants of arrest. The whole structure of s. 102 is based on the identification of warrants by their particular nature, and subs. (3) and (4) deal with warrants for the arrest of persons charged with an offence, with subs. (3) including search warrants as well. Is it right to say that because a warrant issued under s. 15 is bound to be a warrant for the arrest of a person charged with an offence, the reference in s. 70 (4) is equivalent to saying that a means inquiry warrant may be executed as if it were a warrant for the arrest of a person charged with an offence? We concede that the point is arguable but in our view, reading s. 70 (4) as a whole, its purpose is to bring in the provisions of ss. 12 to 14 of the Indictable Offences Act, 1848, but restricting their operation to the United Kingdom. Some support for this argument may possibly be obtained from s. 70 (5) which refers specifically to s. 102 and clearly refers to s. 102 (1). Its effect is to make it possible to avoid arrest on a means inquiry warrant by paying the amount due. Without s. 70 (5) it could be said that the warrant must be executed by the arrest of the person named in it even though payment were made. What we would emphasize is that s. 70 (5) does not go on to say words to this effect " but save as aforesaid the said s. 102 shall apply to such warrants as if they were warrants for the arrest of a person

charged with an offence." Those supporting the other argument would doubtless say that such addition to s. 70 (5) is unnecessary because that is the effect of s. 70 (4).

In conclusion we would say that we have tried to put forward both points of view. We think the balance of argument is in favour of restricting the effect of s. 70 (4) to making possible the execution of means inquiry warrants outside England and Wales as we feel strongly that express words are required to confer any power which increases the liability of persons to be arrested, particularly when it is suggested that this power is conferred by a statute whose purpose is, save in minor matters, to consolidate and not to amend the existing law.

SCRUPLES

Coincidence has brought us for review at the same time a *Guide to the Legal Profession* and two works on income tax, dealing with back duty. In one of the latter, and in the *Guide*, we were interested to find the respective authors, the one a lawyer, the other an accountant, reproducing the much quoted passage in Boswell's *Life of Johnson*, where Johnson's opinion is given upon the moral aspect of the practice of the law. This is certainly the best known, popular, exposition in the English language of casuistic theory : related to the legal aspect, because in England it is solely in relation to the law that even modern educated people are conscious of the underlying problem, which in pre-Christian Athens and the Christian middle ages was seen in so much wider aspects. We do not know whether Johnson's exposition has been found wholly satisfactory by all those who have read it, or by those who have, when challenged, repeated or adopted his reasoning about their choice of a profession. Such challenge is common enough—grave or would-be humorous, it is not normally difficult for an English lawyer to answer, in a manner satisfactory enough for the occasion. This is, however, because the layman instinctively fastens upon the problem which to the lawyer is most simple—that of defending on a criminal charge where the legal adviser has been made aware that his client has committed the act or omission which is alleged as an offence. In extreme cases this awareness may come about by an admission of the client, as in the classic case of Courvoisier, who murdered Lord William Russell in 1840. Here Charles Phillips has been condemned by professional opinion as well as by the moralists because, after being told by Courvoisier in the cells, during the progress of the trial, that he had in fact killed Russell, Phillips (in the words of the *Dictionary of National Biography*) " pledged his word that his client was innocent, and sought to fasten the crime on another." The course he ought to have taken is quite clear. Having already been before the jury as defending counsel he could not throw up the brief—he was leader of the Old Bailey bar, and his retiring from the case would have been highly prejudicial to the prisoner. He had, however, no right to " fasten the crime " on some person other than his client, though he could properly enough have urged that the facts stated in evidence were not satisfactorily established by the prosecution, or were consistent with the guilt of some other person.

It is, however, comparatively rare for a prisoner already arraigned, or indeed expecting to be put on trial, to inform his counsel that he committed the act charged as an offence. More often, it is the solicitor who has to face the moral problem, and (perhaps) in actions more often than upon a prosecution. In the case where the client is on trial or expecting to put on trial, the legal adviser's certainty about his client's guilt will most often have come about from his own investigation of the circumstances, as his client unfolds the matter to him stage by stage. As Johnson says " you are not to deceive your clients with false representations of your opinion ; you are not to tell lies to the judge." The adviser in a criminal case (whether he be the solicitor, who will have most dealings with the defendant, or counsel who at some point may see the defendant personally) will, therefore, not hold out expectations of acquittal or a reduction of the charge unless upon good grounds. If he thinks it will be wiser for his client to plead guilty and seek mitigation of the punishment, he will say so at the most appropriate stage, and, when the case comes into court, he will take care that no false evidence is given upon which to base his argument for the defence. He is greatly helped by the long settled principle, that it is for the prosecution to establish the case against the prisoner or defendant ; counsel is perfectly entitled to pick holes in the prosecution's case so long as they are holes in its facts or probative value, and are not picked by way of any mis-statement on his part. Within these limits, it may be safe enough in the criminal sphere to say with Johnson : " an argument which does not convince yourself may convince the judge to whom you urge it . . . it is his business to judge ; and you are not to be confident in your own opinion that a cause is bad "—though, even here, there must be cases where defending counsel is on a razor-edge of conscience, if he has to present an argument that does not convince himself. And how far may counsel for the prosecution go, when he discovers weak spots in the story presented by his witnesses ? Johnson is silent about this, and it is worth remembering that a greater man than Johnson was much disturbed about the moral problem, as a whole. To Socrates, the professional practice which Boswell queried was simply " making the worst cause appear the better," and to be condemned accordingly.

In criminal law, however, the problem (as it seems to us) may be easier for the solicitor or advocate than in some other branches of his practice. Suppose that a client wishes to take legal proceedings to enforce payment of a sum of money. He assures his solicitor that the money has not been paid, but, on looking through papers in the case, the solicitor finds (say) a counterfoil of a receipt which from the amount and date, and some indication upon it that the receipt had been issued to the particular debtor, appears to have related to the debt in question. Obviously he will ask his client to explain the matter. What is the next step, if the client informs him positively that the counterfoil is that of a receipt for the payment of a different sum from that now claimed ? Is the solicitor to believe his client in the face of probability, and on that belief to instruct counsel ? Again, what is the position of counsel if the solicitor (as he surely must) calls attention to the counterfoil and to the lay client's explanation of it ? It will probably be said that, having warned the client that he may not be believed if in the witness box he swears that the counterfoil related to a different sum of money of identical amount, solicitor and counsel may both proceed with a clear conscience, if the client so instructs them. The legal advisers for the defence in a simple case of this sort have, it may be, a rather less exacting choice. If their client steadfastly maintains that he has paid the money claimed, even though no receipt can be produced, they are entitled to believe him, for it is common enough to lose receipts. These are, however, the straightforward cases. Much more involved and difficult problems may be presented, and not to lawyers alone. Other professions, equally with those practising the law, may find the same casuistical and ethical issue troubling their conscience.

We spoke above of books relating to income tax arrears. An accountant called in to advise a client may feel sure, after investigating the client's accounts and correspondence, that any underpayment of tax has been accidental, and that the client has made returns of income to the best of his ability. Where this is so there is no difficulty. It is, however, unfortunately true that in a large proportion of such cases there is no room for doubt about the client's having attempted to evade his liabilities, by deliberate omission of items which he has received as income, or by deliberate overstatement of the expenses to which he has been put in the earning of that income.

Sometimes the client, when challenged by his solicitor or accountant, is quite frank. We lately came across the case of a woman possessing substantial private means who told her solicitor that she had no scruples about attempts to defraud the Inland Revenue. Our informant knew her, in other respects, for a rigid moralist ; she had resigned from a local literary society because the committee asked a leading dramatist who had been a co-respondent to deliver the public lecture at the society's annual open meeting.

Such a person can be regarded like Samuel Butler's Puritan ; she would compound for sins she was inclined to, by damning those she had no mind to, but where taxation is concerned such an attitude of mind, if not usually so outspoken, is far from uncommon in everyday experience. A man will express sympathy with tax defrauders, saying that the Goverment will only waste the money if they get it, implying, if he means anything at all, that by holding it back the taxpayer may be helping to put a check on unfruitful expenditure. There is a sort of unintended echo of the " conscientious objector " to the education rates of fifty year ago, with the difference that this Puritan of the early twentieth century did make his protest overtly, holding back from the assistant overseer's hands so much of his proportion of the local rates as he calculated would, if paid, be spent upon propagating religious doctrines of which he disapproved. He was essentially an assertive, not a furtive, protestant. If the tax defaulter of today deducted from the sum assessed upon him so much as he believed would go towards payment of members of Parliament, or the provision of false teeth for Lascars, or atomic weapons, or whatever else it be that he claims to disapprove, he would be no worse than an eccentric. In truth, his motive is not that of restoring economic sanity, but that of maintaining his personal economic stability, not openly but by what is, in essence, forgery—the making of false documents.

And, typically, he knows this well enough. One of the books on back tax that we have before us suggests that a " tax amnesty " for (say) two years might bring in as much as fifty million pounds from voluntary disclosure of unpaid arrears. We doubt it. It may be true, as the author of the suggestion says, that such a plan has succeeded in India and France, but in neither of those countries is the climate of opinion what it is in England. Macaulay denounced the hanging of Nuncomar for forgery, not upon the ground that Nuncomar was innocent (this has often been alleged, but the conviction was in accordance with the then English law duly made applicable in Bengal, and by proper judicial process in the High Court) but because, among Hindus, forgery held no moral stigma. So in France, it is commonly said that no Government expects more than a small fraction of direct taxes to be paid (as against the eighty-five *per cent.* budgeted for in England, according to Mr. Baldwin when Chancellor of the Exchequer) because misrepresentation by the citizen of his taxable resources is not regarded as immoral.

If this be so, the man who in France or India has been lucky enough to get away with it (in the cant phrase of today) can disclose his past default, if this is financially made worth his while, without any loss of face.

In our country, however, although hardly anybody doubts that since Lord Baldwin sat at the Exchequer his fifteen *per cent.* of defaulters has increased very greatly, there is still an aftermath of Victorian or Puritan distaste for admitted lying. The avowed maker of false documents, be they no more than tax returns, may expect to see at least some cold faces and rub against a few cold shoulders.

This is, however, so much speculation ; we do not expect to see any Chancellor of the Exchequer gambling on the result of a contest between avowed greed and ingrained national hypocrisy.

Incidentally, and as a curiosity of human character, it may be mentioned that the woman who told her solicitor of her attitude to the Inland Revenue was a professional educationalist, who retired upon inheriting a fortune. Her solicitor no doubt pointed out to her that the apparatus of detection at the disposal of the Revenue is pretty competent, and also that heavy pecuniary penalties and imprisonment may be the lot of those defaulters who are brought before the Courts. Having done so much, what is his duty, or the duty of the taxpayer's accountant, in preparing statements of account designed to lead to a negotiated settlement with the Revenue? One of the books we have been reviewing expounds the matter by way of practical examples ; the author postulates a trader who has deliberately practised frauds upon the Revenue for several years, and in his attempt to cover up the frauds is detected in deceiving the accountant whom he at last employs. The author thinks that, even so, it is the duty of the accountant, having once accepted a retainer, to go through with the case, despite invective from his own client and the latter's proved deceitfulness : to go through with it, that is to say, to the extent of insisting upon all proper information from his client which will enable him to present an honest case to the Inland Revenue. In the course of such investigations, the accountant is likely to come across suppressions and distortions which do not affect the ultimate figures in the account presented ; these (the author suggests) he is under no obligation to disclose, so long as the figures themselves are correct to the best of his understanding and ability.

Since it is unfortunately true that high rates of taxation coupled, according to many people, with a decline in average standards of morality have led to a vast amount of tax evasion, accountants and solicitors alike must expect a good deal of this unpleasant type of practice. The Johnsonian argument would be that even the most rascally evader of his obligations to the public is entitled to have his case presented to the Inland Revenue in as favourable a light as honesty on the part of his advisers will allow, just as he will be entitled to be properly defended, within the limits of professional honesty, if he is brought before a jury on the same matter. Socrates might have suggested doubt on this score, but in the great days when the *advocatus diaboli* came into existence, and casuistry was really understood, we think that Johnson might have been upheld even in this field—although we are sure the problem which Boswell put to Johnson is less acute in the shape in which he put it, namely, defending straightforward charges of a criminal offence.

A rather similar difficulty may (it has sometimes occurred to us) crop up in the ordinary course of local government. The vast increase in the powers and functions of local authorities on the one hand, and on the other hand in the obligations placed, in the sphere of local government and public health, on private persons, has given new scope for avoidance of such last mentioned obligations, and for ingenuity in enforcing them on the part of local government officials. We remember its being said by a well-known official of one of the leading county boroughs, that enforcement of public health requirements was a gigantic game of bluff. How far is this true ? So far as it is true, how far is the playing of that game consistent with the duty of the local

government official to himself as an honest man, and to his own profession? Here, as in the practice of the criminal law, or in dealing with a defaulting taxpayer who is one's private client, the only answer which anyone can give is, we suppose, that the individual must look at the matter "as a moralist," in the phrase which Boswell uses. He is not to be confident in his own opinion that a cause is bad, but to say all that he honestly can for the local authority's point of view. It is not always easy.

POSTSCRIPT ON CIVIL DEFENCE

[CONTRIBUTED]

The recent article by "Ephesus" brings to the surface once again the disquiet which invades the mind when attention is turned to Civil Defence. Most of the services fathered by local government are apt to be troublesome children at times, but none of all the brood is a more persistent nuisance than Civil Defence. The Select Committee's report was, of course, a gift to the daily press. Some journals seized upon this attractive subject and dragged it so far into the realms of fancy as to greet the new Civil Defence Grant Regulations as the first tangible result of the Select Committee's criticisms. In point of fact, the Regulations had been the subject of discussion with the associations of local authorities for many months and were in final form before the Committee's report saw the light of day.

Nevertheless, there is on every hand a sense of uneasiness and unhappiness about Civil Defence. Now that the sound of battle has died away and the Home Secretary has given his reply, what is to happen to this *enfant terrible*? Are local authorities to be whipped into a new frenzy of publicity, public meetings, and house-to-house canvasses?

Paradoxical as it may seem, this busyness with recruitment of volunteers is probably the biggest single drag on the efficiency of the service. Civil Defence Officers up and down the country groan under the burden of each fresh publicity campaign, and, the more immediately successful the campaign is, the greater are the efforts required to prevent the organization becoming chaotic. In addition to all the hard work needed in planning and implementing the drive for volunteers, classes must be established on as diffuse a basis as possible throughout the authority's area for the reception of the new-found volunteers while they still have any vestige of live interest. Even so, a fifty *per cent.* attendance at the first lecture is an achievement. A $33\frac{1}{3}$ *per cent.* attendance throughout the series is regarded as excellent.

Just now, local Civil Defence departments in the larger urban areas are grappling with a new and rather indigestible proposition. At the request of the Home Office, they are endeavouring to mould industry and commerce into local Civil Defence groups. Where the factories are reasonably large and confined to a few localities in a town, progress, albeit slow, can be made, but when one considers the commercial and business areas of any large city—block after block of offices, occupied by large numbers of small firms—the picture of the Civil Defence Officer and his scanty staff still toiling round ten years from now is not entirely fanciful.

One fact emerges quite clearly from what has already been done in this matter of Civil Defence in industry and commerce. It is that there is no great enthusiasm on the part of these undertakings for the ways of Civil Defence, no keenness to organize mutual aid groups and to that extent relieve the local authorities of some of the burden. This attitude is understandable. Industrial undertakings, like local authorities themselves, have a sufficiency of other problems of more pressing urgency to occupy their attention.

What is to be done with this problem service? Can it be converted into something mature and satisfactory and take its place alongside the other local government services of the country, without being a continual cause of alarm and dissatisfaction?

There are grounds for thinking that the position could be retrieved, even at this comparatively late stage. A completely new approach, however, is essential. In the first place, the experience of recent years must be accepted and the delusion that hosts of citizens are willing to come forward now and be trained for a remote contingency must be put firmly out of mind. Even the numbers who have already volunteered are an embarrassment to any Civil Defence Officer, who is honest with himself and willing to admit how little Civil Defence has permanently to offer in peacetime to any overlarge body of volunteers. How any Civil Defence Officer could usefully employ all the volunteers nominally on his establishment, were they effective, it is hard to imagine.

Here then is the first requirement. Call a halt to the unfruitful recruitment campaigns, eliminate from the roll all ineffective volunteers and declare it as a national policy that it is now proposed to keep peacetime establishments at a level which will provide merely a nucleus of officers in each section of the local divisions of the Corps. Associated with this, there should be a clear pronouncement that local authorities are to be encouraged to concentrate on perfecting their local plans and organization and to aim with the Home Office at solutions to the problems which still remain to be settled. The question of damage control after heavy raiding, particularly atomic bombing, is only one of the important aspects of Civil Defence still to be thrashed out.

Given the above conditions and the consequent freedom from feverish and frustrating activity, local Civil Defence organizers could apply themselves with reasonably single minds and with enthusiasm—in any other sphere one might say "with enjoyment"—to the production of a compact and workmanlike scheme. Calm experiment and research would at last become a practical possibility. The excellent courses now provided at the Home Office Staff College and Tactical School could be reproduced by local authorities for the benefit of their own smaller peacetime establishments. One can visualize the stage quickly being reached at which such local courses and T.E.W.T.'s would become a regular feature. With the smaller numbers of personnel involved, every volunteer could in this way be kept aware of the problems arising and of the progressive solutions advanced. Membership of the Corps would acquire an attractiveness which it hardly possesses at present.

Industry and commerce could be brought into the confidence and counsels of the local authority in the course of these developments and encouraged to set up their own co-ordinating machinery for planning mutual aid and for relieving local authorities to that extent.

Two or three years on this new basis could work something approaching the miraculous. At the end of that time, it might be possible to open the door to additional volunteers on a limited scale in the knowledge that a well-found and efficient organization had been established. Of vital importance in these stringent days would be the further merit that expenditure of

public money in this matter was being kept to a minimum. There is no doubt that large sums have been spent abortively on recruitment, training and equipment of volunteers who have faded away. As an instance, it is perhaps not generally appreciated that it costs something like £12 to fit out a volunteer with uniform.

Whether or not any further serious thought is given to the suggestions which have recently been put forward for reforming the top-level direction of Civil Defence, it seems quite clear that there is ample scope for improvement in policy as it affects the practical work of the local Divisions of the Corps and the reformers might well turn their eyes in that direction. "PRAECO"

WEEKLY NOTES OF CASES

COURT OF APPEAL

(Before Somervell, Birkett and Romer, L.JJ.)

SOUTHGATE CORPORATION *v.* PARK ESTATES (SOUTHGATE), LTD.

February 11, 1954

Private Street Works—"Unreasonable"—Proposed works premature—Proposal to make up street before land fully developed—Private Street Works Act, 1892 (55 *and* 56 *Vict., c.* 57), *s.* 7 (*d*).

APPEAL from decision of Divisional Court (reported 117 J.P. 541.)

In 1951 the appellant corporation passed a resolution pursuant to s. 6 (1) of the Private Streets Works Act, 1892, to execute certain private street works in a road on a building estate owned by the respondent company. The respondents, who had built houses on the estate and intended to build more on the land that remained vacant, were liable, as owners under s. 5 of the Act, to be charged with about half the cost of the works proposed by the appellants, which were to lay a three-inch surface of tar macadam on the existing surface of the road in so far as this surface provided a basis of hard core and were estimated to cost some £6,000. In January, 1952, the respondents' objections, under s. 7 (*d*), to the appellants' proposals on the ground that they were insufficient or unreasonable, or that the estimated expenses were excessive, were dismissed by a court of summary jurisdiction. In May, 1952, the respondents applied to the appellants pursuant to the Town and Country Planning Act, 1947, Part III, for permission to develop the site by building houses on the vacant land. In June, 1952, permission was refused, and the respondents intended to appeal to the Minister of Housing and Local Government, and, if the appeal were allowed, to undertake building operations which would entail cutting into the road to provide water, gas, and electricity services to the new houses, while the use of heavy vehicles on the road in connexion with the building would seriously damage the proposed new surface. In July, 1952, quarter sessions allowed the respondents' appeal against the dismissal of their objections on the ground that the proposed works were unreasonable because they were premature, and an appeal by the corporation to the Divisional Court was dismissed. On appeal to the Court of Appeal,

Held: the word "unreasonable" in s. 7 (*d*) of the Act of 1892 was sufficiently wide to justify the justices' rejection of any proposed works on the ground that they were not reasonable at the time they reached their decision, and, therefore, on considering whether or not the works proposed by the appellants were unreasonable, quarter sessions and the justices were entitled to reach the conclusion which they did.

Counsel: *J. R. Willis* and *C. C. P. Hodson*, for the corporation; *Ackner* for the respondents.

Solicitors: *G. H. Taylor*, town clerk, Southgate; *Vincent & Vincent* and *Rawlinson & Son*.

(Reported by Miss Philippa Price, Barrister-at-Law.)

MISCELLANEOUS INFORMATION

MONMOUTHSHIRE POLICE REPORT

Although the year 1953 showed only a slight increase in crime in Monmouthshire in comparison with 1952, the increase in offences of housebreaking was twenty-seven *per cent*. Mr. R. Alderson, the chief constable, comments: "In this connexion it is not without significance that, although the population of the County has not increased during the past twenty years, the number of dwelling-houses has grown by thirteen *per cent*., or approximately 10,000. The creation of the modern building estates means that the beat areas are increased and consequently fewer visits by police officers are possible on the present strength."

An interesting item in the report deals with the use of photography: "In August, three cameras were purchased for use by Traffic Patrol Officers and are carried in patrol cars. All drivers have been instructed in their use and up to the end of the year twenty-eight traffic incidents had been photographed by this means. In the majority of the cases the photographs showed the actual position of the vehicles when involved in the incident, which would not have been possible had a photographer had to travel to the scene from headquarters. In eighteen of these cases photographs have been produced before the courts as evidence in cases of dangerous and careless driving. The useful information they provided proved their worth."

Recording what he rightly describes as "a shocking figure" of sexual offences, Mr. Alderson says: "It is increasingly felt in police circles in this county that a great deal of the cause of this—apart from poor home corrective influences or the complete lack of such—lies not only in the type of films which are shown to the public, but also in the flood of provocative literature found in books, periodicals and a few newspapers. Interest in sex is stimulated as a selling commodity, catering to the lowest taste, even to the aberration of some peculiar people and we feel that, particularly amongst young people, much harm is done. In this county juveniles—young people under seventeen years of age—were concerned in no less than fifty-three of the sexual offences quoted above. I think it is only fair to say that, although the only figures I can quote are those applicable to Monmouthshire, a similar trend is observed in other parts of the country. This is a national as well as a local problem."

The total number of sexual offences committed in the county during 1953 was 245, an increase of 115 on the 1952 total.

ROAD ACCIDENTS—DECEMBER, 1953 AND JANUARY, 1954

Casualties on the roads of Great Britain in January, 1954, reached a total of 14,582, a slight decrease (243) compared with January, 1953. There were 376 killed, a decrease of thirteen; 3,594 seriously injured, a decrease of ninety-two; and 10,612 slightly injured, a decrease of 138.

These are provisional figures and subject to minor adjustment.

The final figures for December, 1953, show that casualties totalled 21,222, including 602 killed, 5,490 seriously and 15,130 slightly injured.

In a letter to the *Manchester Guardian*, Mr. F. J. Errol, M.P., criticizes the methods employed in the computation of road accidents statistics. Level crossing deaths (for which he blames the railways), road suicides, casualties to cyclists on reserved cycle paths, casualties on pavements and footpaths which do not involve a vehicle, and the misfortune of elderly people slipping on the mounting-step of stationary buses, all accrue to a total which, he says, is made misleadingly alarming by the adding together of the totals of killed and injured.

Mr. Errol considers that there is very little apathy shown concerning road casualties, and that what there is is largely induced by the "exaggerations and misrepresentations now in vogue". He presents a "remarkable reduction" in casualties since 1930, when 7,305 people were killed, 1,433 of them children, as against 4,706 and 786 in 1952.

LOCAL GOVERNMENT STATISTICS

H.M. Stationery Office have published on behalf of the Inter-departmental Committee on Social and Economic Research, *Guides to Official Sources No.* 3 *Local Government Statistics* (price 1*s.* 6*d.* net). The booklet follows a survey by a Sub-Committee under the chairmanship of Mr. D. N. Chester, C.B.E., M.A., of Nuffield College, Oxford, and concerns itself mainly with financial and general statistics collected from local authorities by government departments. It deals in some detail with the development and contents of the main publications of the Ministry of Housing and Local Government in this field—"Local Government Financial Statistics—England and Wales" and "Rates and Rateable Values in England and Wales"—and summarizes the figures on housing, water and sewerage, child care, education, local health and welfare services, transport, local government elections, and manpower, etc., collected by various

Departments. Care has been taken to show the sources of the statistics, the main breaks in comparability over the years and any related unpublished material available for research purposes.

A historical introduction sketches the development of local government statistics since the latter part of the eighteenth century, commenting on the shortcomings of some of the earlier figures and tracing the influence of the Goschen Report of 1868. A brief account is given of the main official sources of information about the history of local government finance.

Separate chapters deal with Scotland and with the growing volume of non-governmental statistics on local government.

THE INSTITUTE OF WEIGHTS AND MEASURES ADMINISTRATION

The Institute of Weights and Measures Administration have been informed by the Board of Trade that, as from January 1, 1955, the Weights and Measures Testamur of the Institute of Weights and Measures Administration will give partial exemption from the Board's Examination for Inspectors of Weights and Measures. Candidates possessing a Weights and Measures Testamur, obtained at Testamur Examination held after January 1, 1954, will be exempt from the Composition, Arithmetic and Mensuration, and Mechanics and Physics Papers in the Board of Trade Examination.

This decision of the Board makes effective recommendation No. 46 of the Report of the Committee (Hodgson Committee) on Weights and Measures Legislation. The Testamur Examination, inaugurated in 1951, has maintained a particularly high standard which has now been accepted by the Board of Trade without alteration in the subjects to be taken and with only slight alteration in the standard of marking to be attained in Arithmetic by successful candidates. The services of outside examiners, who possess the appropriate professional and academic qualifications and experience, have been used except in those cases where the expert knowledge was possessed by members of the Institute only.

To assist candidates, and to provide sources of information and study material not available elsewhere, the Institute have had prepared and issued to prospective candidates Lecture Study Notes for the specialized subjects which are necessary in both examinations. Here again it was necessary to make use of expert knowledge from within the Institute which could not be parallelled outside.

In addition, courses of lectures have been organized in several districts. The most outstanding of these, organized by the Chief Inspector of Manchester, has been made available to surrounding authorities through the co-operation of the Manchester Education Authority.

W.H.O. TRANSPORT MORTALITY FIGURES

An analysis of transport accidents, more than seventy *per cent.* of them on the roads, was published by the World Health Organisation at Geneva on February 16. It is found that such accidents rank in some countries with tuberculosis as a cause of death, and affect chiefly children and the age-group 15-24. Many more boys are killed than girls, in some countries the proportion being as high as five to one.

Motor vehicles and motor cycles are responsible for the majority of deaths by forms of transport, and aircraft accidents are by a considerable margin the least lethal. Twenty-two types of accident in fifteen countries were considered from the records of the last five years, and Australia was found to head the table of mortality per 100,000 inhabitants due to motor traffic. An extract from the table shows the overall mortality rate, followed by an analysis into age-groups :

		-5	5-14	15-24
Australia (1951) ..	24·4	9·7	6·4	45·5
U.S.A. (1949)	20·8	8·5	8·5	29·9
Canada (1952) ..	20·0	14·4	13·3	26·1
West Germany (1951)	15·5	9·6	8·2	14·2
New Zealand (1952) ..	13·1	7·4	4·0	27·2
England and Wales (1951)	10·0	8·2	6·9	13·9
Scotland (1951) ..	9·9	12·7	13·1	9·6
Japan (1951)	4·0	6·5	2·9	3·3

YEOVIL R.D.C. ACCOUNTS, 1952/53

The accounts for 1952/53 presented by the rural district treasurer, Mr. R. J. Parsons, A.I.M.T.A., are a model of brevity the whole being contained on fifteen foolscap pages : nevertheless they manage within this compass to give the reader a clear picture of the whole of the finances of the Authority.

The population of 24,000 paid rates in the year of account amounting to 21*s.* 6*d.*, of which 16*s.* 9*d.* was raised for Somerset County Council and 4*s.* 9*d.* for local requirements. In 1952/53 this was a rate poundage near to the average, but rates raised per head of population in the district amounted to no more than £3 14*s.* 6*d.* (compare Taunton £8 13*s.* 7*d.* and Bristol £8 7*s.* 2*d.*). We note from the analysis of rateable value given by Mr. Parsons that sixty-one *per cent.* of all houses and flats have rateable values not exceeding £8.

The greater part of the rate levy was spent on sewerage (£5,600), refuse collection (£4,300), housing (£5,100), administration (£5,900), and in meeting the deficit on the water undertaking (£8,800).

The year ended with a credit balance of £1,400 which was added to the comfortable surplus of £23,000 held at April 1, 1952—the strong financial position of the authority is indicated by the fact that this surplus is equal to a rate of 6*s.* 0*d.*

The Council owned 1,424 houses at the year end and properties were so managed that there was no call upon the ratepayers beyond the statutory contribution. It is interesting to observe that whereas the economic weekly rent of a new council house in Yeovil costing £1,600 is 33*s.* 8*d.*, because of the subsidy provided by taxpayer and ratepayer of 13*s.* 8*d.* a week and because of the Council's policy of pooling the rents of post-war and pre-war houses new three-bedroom houses are in fact let at a basic rent of 14*s.* 0*d.* weekly. Capital expenditure on housing totals £1,171,000.

During the year the Council advanced £14,600 under the Small Dwellings Acquisition Acts, mainly to persons erecting their own houses under licence at interest rates of four or 4½ *per cent.* according to repayment period.

Total expenditure on the water undertaking was £31,100, and the deficit for the year was met as to £4,600 by Somerset and as to £8,800 by Yeovil. The County Council also contributed £2,900 towards total sewerage and sewage disposal costs of £8,500.

WALSALL PROBATION REPORT

In estimating the tendency of crime to increase or decrease in a particular area, it is always more satisfactory to make comparison over a period of years than to take one year and the preceeding year. Purely temporary causes are thus more or less eliminated, and a general trend is revealed.

In the report of the Probation Committee for the county borough of Walsall for 1953 it is stated : " The total of 231 probation orders is the lowest for some time and, as you will note from the summary at the end of this report, compares favourably with the 318 cases in 1949, which was the ' peak year ' for a number of serious types of crime, especially housebreaking. All the members of your juvenile court panel are also members of this committee and we are pleased to be able to say that the downward trend is more particularly marked in respect of juvenile cases. It is beyond doubt that noticeable improvement has taken place in the incidence of juvenile delinquency in this borough during the past few years and, as the decline in the number of cases coming before that court is gradual and steady, we hope that it may be continued."

" Kindred social work " has become a recognized heading in returns and reports of probation committees and probation officers. The Walsall report mentions a variety of matters in which probation officers have been involved, the effect of their efforts having been in many instances that no court proceedings followed. As to voluntary supervision the report says: " There were forty-one cases of ' voluntary supervision ' and ' beyond control ' cases in which parents or guardians came to seek assistance. These cases are useful in that a situation is often brought to light at a stage when advice and assistance can avoid deterioration in conduct which could only in the ultimate entail the child's appearance before court, possibly charged with some criminal offence."

ROAD FUND REPORT, 1952/1953

The latest report on the administration of the Road Fund, covering the year ended March 31, 1953, presents in some ways a more complete and up-to-date picture of road expenditure than reports for previous years.

Hitherto the latest figures given in the appendices, including those for expenditure borne by local highway authorities, have been for the year before that covered by the main body of the report, but with the co-operation of highway authorities these figures have now been brought forward a year. The latest report also gives, for the first time, figures relating to trunk roads in the detailed tables of road expenditure.

Total expenditure on roads and bridges during the year 1952/53 was about £86 million, an increase of £5 million on the previous year. Of this sum nearly £32 million was borne by the Road Fund and the balance by local highway authorities.

Most of the money was used for maintenance and minor improvement, but £6 million was spent on major improvements and new construction work, thus maintaining expenditure under this heading at about the same level as in the preceding year.

TRUNK ROADS

Maintenance work on trunk roads included the re-surfacing of 586 miles and the surface dressing of over nine million square yards.

The volume of work was about the same as in the previous year, but expenditure was higher because of the increased cost of labour and materials.

The report gives details of major improvements of trunk roads in progress during the year and of the by-passes and diversions the lines of which have been fixed by orders. For example work was practically completed on the widening of the London-Edinburgh road for a distance of five miles in the North Riding of Yorkshire.

Improvements were begun or completed on twenty-six trunk road bridges to facilitate the movement by road of heavy loads.

New or improved systems of street lighting were provided on 77½ miles of trunk roads at a cost of about a quarter of a million pounds, half of which was contributed by the Ministry. These figures are well above those reported in the previous year.

OTHER ROADS

On roads other than trunk roads, the report states that ten level crossings in Scotland and eighteen in England were eliminated. The funds available for maintenance and minor improvements were about eleven *per cent.* more than in the previous year, but because of the rise in costs the amount of the work was about the same. Resurfacing was confined to the worst sections of road.

Among the more important improvement schemes begun during the year was the building of a new bridge over the river Itchen at Northam, Southampton, the cost of which is estimated at nearly half a million pounds.

REVIEWS

Back Duty Manual. By A. J. Roper. London : Butterworth & Co. (Publishers) Ltd. Price 25s. net.

This is a small book, calculated nevertheless to be most valuable to solicitors in private practice and also to accountants, whose practice, we are credibly informed, is coming more and more to be concerned with what is now called " back duty." The author was formerly a senior inspector of taxes, concerned with the inquiry branch of the Inland Revenue. As might be expected, he has no illusions about the matters to which his book relates, remarking in the preface that the increase of the standard rate of income tax from 1913 to the present day, with its ancillaries in the shape of surtax, excess profits duty, and the rest, have stretched the moral fibre of taxpayers to such a degree that a high percentage take steps to avoid their full liability. The methods adopted are sometimes legal, but the present work is mainly concerned with the aftermath of following illegal methods. The extent to which tax evasion is practised is well known to every professional man ; above all, to the Inland Revenue itself, which in recent years has been paying particular attention to back duty. This, which gives its name to the book, is by now an accepted description, for tax of which the payment has been avoided in past years. New methods of detection, and new schemes for training revenue officers, have been worked out. It is not improbable that many of our readers, guiltless themselves of having knowingly avoided tax obligations, have had the unpleasant experience of being called upon to produce vouchers for several years, long after they had sent in their returns of income, and paid what they supposed to be the proper amount. It is one of the penalties of crippling taxation (and consequent evasions) that the honest taxpayer has to put up with inquisitions designed to protect him against those who are less honest. Apart from the inquiries it makes from individuals, the Inland Revenue now has power under s. 29 of the Income Tax Act, 1952, to require bankers to make returns of interest credited to the accounts of customers, and the introduction to the present work gives information about other methods followed by the Revenue.

The object of the present manual is to show the accountant, instructed by a taxpayer who is having trouble over an alleged liability for unpaid tax, how to handle the matter, bearing in mind that he has not only a duty to his client but also a duty to himself and his profession, and a duty to the public at large. One chapter is devoted to describing the organization which deals with back duty within the Inland Revenue, so that the taxpayer and accountant will have some idea whom they will meet in the conduct of the case. Information is given about the mode in which the Revenue applies its penal powers in practice. The number of criminal prosecutions for tax evasion is comparatively small, but at the back of every negotiated settlement lies the possibility of proceedings in the Courts. While it is not likely that legal action will be taken in most cases, it is important that this possibility should be borne in mind, for the taxpayer is only too likely to resent investigations even by his own accountant, and (where he has in fact been engaged in fraud or near fraud upon the Revenue) he will not have much respect for his accountant's professional scruples. The accountant, therefore, is directly helped in performing his two-fold duty, by the client's knowledge that the Revenue may take the matter to the Courts, if full disclosure is withheld.

After setting out the departmental organization, with emphasis on the independent position of the General Commissioners, the author proceeds to detailed statement of the sources of information available to an inspector of taxes. These include such unlikely sources as the number of telephone lines which the taxpayer possesses, or the cost of properties, when a sale is mentioned in the press. Perhaps the commonest source of back duty discovery is when the inspector is going through the books of one trader and finds information about payments, in or out, which affect another.

From this, the work proceeds to explain the beginning of a back duty case, and the ascertainment of omitted income. The author justly observes that simplicity is the exception rather than the rule. Even where it seems that only specific items have been omitted, the Revenue often finds it fruitful to investigate the whole of the taxpayer's affairs. This can be most irritating to a taxpayer, who has made an honest oversight which he admits when it is pointed out, but the experience of the inspectors is that a taxpayer seldom confines omissions to one method. It is necessary, therefore, to investigate all possible loopholes before a settlement is reached and, seen from the accountant's side, these reflexions lead to the conclusion that an accountant must not be influenced by his own good opinion of his client. Many extremely bad cases of evasion have been perpetrated, by persons who by all appearance are beyond all suspicion of dishonesty. As the author cynically but not unjustly says, many business men genuinely believe that they are honest, because they have no desire to remember that they have evaded their liability to tax. By laying before his client the commonest forms of tax evasion, the accountant may refresh his client's memory, and lead the way to a general disclosure.

A substantial part of the work is taken up by an analysis of two imaginary examples, Mr. Alexander Bruce Sea and Mr. Donald Edward Flour, whose cases the author represents as having more verisimilitude than those of ABC and DEF. Mr Sea is a business man who has kept normal accounts of his dealings, so far as these were known when his ordinary book keeping was done. Any items omitted will therefore be traceable, if at all, from examination of his private savings and expenditure. Mr. Flour is postulated as a business man in a small way, who has no reliable records, so that his private and business affairs have both to be investigated. For each of these imaginary taxpayers, detailed statements of back duty accounts have been prepared. Here the publishers have collaborated with the author, in the simple but effective device of printing these statements at the outward edge of a blank page, so that they can be opened on the table while the letterpress relating to each account is being read. This avoids constant reference backwards and forwards, which distracts the attention when detailed information appears in an appendix.

The subject of the book is, perhaps, unpleasant, in that few people care to be reminded of the extent to which their friends and associates may be defrauding the public by successful tax evasion. Nevertheless, the evil is widespread, and solicitors and accountants who are consulted in such cases have a duty to the public. In performing that duty, and at the same time doing what they legitimately can to help their clients, they will not, we think, find better guidance anywhere than is given here by Mr. Roper from the depths of his experience.

Municipal Law With Special Reference to the Cape Province. By L. de V. van Winsen, Q.C., Lionel F. Dawson and P. J. Coetsee. Cape Town and Johannesburg : Juta & Co., Limited. Price £7 15s. 0d. net.

This is the second edition of a substantial work, of which the first edition was produced in 1940 by Mr. T. E. Donges, Q.C., and the present senior editor.

Few of our own readers in this country are directly concerned with the South African law of local government ; the appeal of the book must be mainly to South African lawyers and officials, and a certain number of students in Great Britain. It is, nevertheless, of some wider interest, in that the municipal law of Cape Province as it now exists began in the old days of Cape Colony, and owed a great deal to English law as it existed in the nineteenth century. The present work (it should be said) is not concerned with the law of local government in those parts of the present Union of South Africa which developed up to the end of last century under Dutch control, nor with Natal.

South African readers who are concerned with other parts of the Union than Cape Province will therefore, like English readers, require the book only for purposes of comparison. Looking into it at a variety of points, we have been interested to notice close parallels with English law, produced we suppose partly by deliberate imitation and partly by the pressure upon events of parallel causes. We notice also that the learned authors quote English decisions, upon many points where the common law underlies the law of local government, and is necessary to its understanding. There are, as will be expected, features which do not occur in English law or (if they do) are found in different shape and under other names—" public outspan ", for example, which is found to resemble our camping grounds or parking places. For parking places, by the way, there is specific statutory power.

Slaughterhouses, public parks, and so forth, seem to have followed something the same lines as here, though it seems curious to find no reference to education which with us looms so large among the duties of local authorities. There are very interesting parallels with our law upon disqualification, interest in contracts, and the like, the law of indirect concern in contracts, and the position of shareholders in companies, having evidently developed in the same way as in England.

The book runs out nearly to one thousand pages, and its price would put it beyond the likelihood of purchase by the ordinary reader, unless he were a public official or otherwise directly concerned with the subject matter. But for persons in Great Britain who are interested in comparative institutions, particularly those affecting local government, the book is worth getting hold of, in a law library or elsewhere, when there is an opportunity. For local government practitioners in the Cape Province of South Africa we have no doubt that it will be extremely valuable.

Bankruptcy, Liquidation and Receivership as Affecting General Rate Recovery. London : The Rating and Valuation Association, 42, Broadway, Westminster. 1953. Price : 18s. 6d. net.

The law dealing with the recovery of rates is still partly based on eighteenth century statutes, and could well be modernized and simplified, but in straightforward cases it is not too awkward to administer. The local government officials who are dealing with it find their chief trouble in the hard core of deliberate defaulters. The greatest difficulty comes when one of the defaulters, deliberate or not, becomes bankrupt or when a company whose rates are in arrear goes into liquidation, or comes into the hands of a receiver. Our Practical Points show that there are several queries constantly cropping up in bankruptcy and liquidation, as affecting rates, and that the rating officer's task is complicated by the attitude often taken up by a liquidator, receiver, or trustee in bankruptcy, who is properly concerned to protect shareholders and to secure as large a dividend as possible for creditors, and seems sometimes to be less than properly interested in the local authority's claim, made on behalf of so indeterminate a body as the ratepayers at large. Since he is normally a person well acquainted with the intricacies of the law relating to personal or corporate insolvency, he has a certain advantage over the rating officer. The present work will do much towards putting them on an equality. It begins with a clear explanation in short paragraphs of those provisions, mostly to be found in the Companies Act, 1948, which govern liquidation, and it proceeds in Part II to deal with bankruptcy. Under this head the nature of an act of bankruptcy is explained, and later proceedings are taken step by step. Deeds of arrangement and Receivers give the titles of later chapters, and relevant statutory provisions are set out in appendices. The work gives in a small compass, and in convenient form, a great deal of information which the rating officer should have at his fingers' ends. The price seems high, but the Rating and Valuation Association are perhaps reckoning that they cannot expect very widespread sales. They have performed a real service to their members and to rating authorities by having the book compiled.

Middlesex. By Sir Clifford Radcliffe, C.B.E., D.L. Obtainable from Middlesex Guildhall, S.W.1. Price 10s. 6d. net.

Most councils have issued at some time or another guidebooks relating to the area or district they administer ; many have produced highly interesting and informative histories, and a few, such as Middlesex in the case before us, have published something which is a real pleasure to read. *Middlesex* is at once a guidebook for and a history of that county, together with a most informative description of the functions of the county council.

Criminal Law and Procedure in a Nutshell. By Marston Garsia, B.A., Barrister-at-Law. London : Sweet and Maxwell, 2 and 3 Chancery Lane, W.C.2. Price 6s. 6d. net.

The Nutshell Series must be a boon to law students, especially for last minute revision before examinations. In this volume, the ninth edition, Mr. Garsia brings the law up-to-date, and thus includes the Magistrates' Courts Act and other recent enactments. It is an excellent example of successful condensation and orderly arrangement. It is not intended as a substitute for larger works, to which reference is made in the preface, but as a handy addition. Statutes and cases are cited freely, and the book may prove of value, as a sort of key to the law, in the hands of many who are no longer students.

BOOKS AND PUBLICATIONS RECEIVED

Education in England. The National System—How it Works. By W. P. Alexander. London : Newnes Educational Publishing Co. Ltd., Tower House, Southampton St., W.C.2. Price : 12*s.* 6*d.* net.

NOTICE

The next court of Quarter Sessions for the Borough of Shrewsbury will be held on Thursday, March 25, at the Shirehall, Shrewsbury, at 10.30 *a.m.*

TO A DEAD CERTAINTY

(Another horse with a legal name)

You ran through my money—if ran be the word,
I said they should shoot you : your trainer concurred.
In Elysian Fields you now practise your tricks—
It must be a change to get over the Styx.

J.P.C.

PERSONALIA

APPOINTMENTS

Mr. Thomas Pringle McDonald, Q.C., has succeeded Mr. James Walker, Q.C., as Sheriff of Aberdeen, Kincardine and Banff. He was called to the Scottish Bar in 1927 and took silk in 1948. He was elected Keeper of the Library of the Faculty of Advocates in 1949.

Mr. G. T. Giles, deputy clerk of Chichester R.D.C , will succeed Mr. Leonard Bailey as clerk. Mr. Giles, who was called to the Bar in 1950. has been deputy clerk since 1947, after serving Lichfield R.D.C. and five other local authorities.

Mr. James S. Hipwell, a partner in a Norwich firm of solicitors, will succeed Mr. R. N. Jones as clerk to the Taverham justices at the Shirehall. The appointment is part-time ; Mr. Hipwell is 29, and was admitted in 1947.

Mr. John T. Slinger has been appointed assistant solicitor to Fulwood U.D.C.

Mr. T. G. Howells, of Bryngwy, has succeeded Capt. Stanley Price as Probation Officer of Rhayader P.S.D.

RETIREMENTS

Mr. G. A. Parkin, clerk to the East Ham justices for 25 years and previously assistant clerk for 10 years, is about to retire. He commenced his career as an assistant clerk to justices at Huddersfield, his home town. He has been president of Essex justices' clerks' society since its formation.

Supt. Arthur Frederick Stacey is about to retire from the Bristol police. He joined the force in 1919, and has been attached to " A " Division, of which he is now the head, for 20 years. He was promoted inspector in 1934, and on the outbreak of war was seconded to the War Department to train the special constabulary and war reserves of "A" Division. He was promoted chief inspector in 1941, and superintendent in 1946. He was awarded the King's Police Medal last January.

Chief Inspector D. S. G. Burridge, of Bognor Regis, has retired from the West Sussex Constabulary. He will be succeeded by Chief Inspector S. Johnson, who will be replaced at Worthing by Det. Inspector John Guthrie Doney, now promoted to Chief Det. Inspector.

OBITUARY

Mr. Asher Carlyle Vincent Prior, formerly Attorney-General of Nigeria, has died at the age of 72. He was called by the Inner Temple in 1905, and in 1915 was appointed Attorney-General of St. Vincent, three years later going to the Leeward Islands, and thence to Sierra Leone in 1920 as Solicitor-General. Attorney-General of the Gold Coast in 1925, he returned to Sierra Leone in that appointment in 1927, and served in Nigeria from 1929 to 1935.

Dr. Stephen Horvath, LL.D., a barrister-at-law and formerly honorary secretary of the Hungarian Branch of the International Law Association, has died in Budapest.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 22.

PROSTITUTES IN A RESTAURANT

A Norwich restaurant proprietor pleaded Not Guilty when charged before the local magistrates recently, with two offences under s. 32 of the Refreshment Houses Act, 1860. The charges alleged that the defendant, being a person licensed to keep a refreshment house, knowingly suffered prostitutes to continue in or on his premises on two dates in December of last year.

For the prosecution, a police sergeant gave evidence that when he visited the restaurant at 1 *a.m.* on November 13 last, he saw three women known to him as prostitutes, sitting at a table. He did not say anything to defendant as he had previously pointed out the women to him. At 1 *a.m.* the following night he again went to the premises and saw the same women at a table. He spoke to the defendant who replied "Yes, I know what they are, but they just have their meal and clear off." The police sergeant stated that he kept observation on the restaurant on the night of November 30/December 1 and on December 6. He saw prostitutes enter the premises, and one was there for about 2½ hours. On the first night he saw some thirty or more men enter the restaurant, and on the second occasion just under twenty visited it.

At 12.55 *a.m.* on December 13, witness went into the premises, and saw one of the prostitutes upstairs sitting at a table with a man. He told defendant that he would report him for a summons.

Defendant, in evidence, said that the place was now run in a proper way, and he explained that he had held the licence at the time in question for only a few weeks. "I did not know anything about the Act" (the Refreshment Houses Act), he said.

The Chairman, who described the case as a bad one, fined the defendant £5 on each summons.

COMMENT

The Refreshment Houses Act, 1860, has had a very chequered career. Amendments to it have been made upon a number of occasions during the past ninety years, and a massive blow to its original form was struck by the Customs and Excise Act, 1952.

Section 32 prohibits (*inter alia*) a person licensed to keep a refreshment house from knowingly suffering prostitutes to assemble at or continue in or upon his premises.

It will be recalled that the definition of a "refreshment house" is to be found in s. 6 of the Act and shortly all premises kept open for public refreshment, resort and entertainment at any time between 10 *p.m.* and 5 *a.m.*, not being licensed for the sale of intoxicating liquors, are refreshment houses for the purposes of the Act.

It was originally thought that the words "and entertainment" meant that something more had to be provided than mere food and drink to bring premises within the Act, but this view was later dispelled, and it was held that a shop consisting of one room in which lemonade and ginger beer were sold and in which there was no accommodation for visitors to sit down, but only a table or counter at which they stood for a few minutes, was nevertheless a refreshment house within the meaning of the section—*Howes* v. *Inland Revenue* (1876) 41 J.P. 423. R.L.H.

No. 23.

SCHOOL ATTENDANCE—AN OBSTINATE FATHER

An Englishman, living at Pwllheli, appeared before the local magistrates recently to answer charges that he had failed to send his children regularly to school contrary to s. 39 of the Education Act, 1944.

For the prosecution, evidence was given of non-attendance and the Director of Education for Caernarvonshire gave evidence that he was not satisfied that the defendant's children were receiving suitable education for their ages. Defendant had failed to supply him with information he required concerning the names and qualifications of tutors whom defendant claimed were giving his three children private tuition.

Defendant, who pleaded Not Guilty to the charges, told the court that his children were being "victimized and tortured at school" because they were English. He alleged that no English-speaking pupil in South Caernarvonshire had successfully passed the entrance examination for the Pwllheli Grammar School, and that no Welsh child had failed. Defendant stated that he was adamant in his determination not to allow his children to be taught Welsh.

Evidence was given of previous convictions for similar offences and defendant was then fined a total of £9, of which £5 was in respect of his daughter, there having been two previous convictions in respect of her.

As soon as the chairman announced the court's decision, defendant shouted at the bench "You Welsh Nationalists." The Chief Constable of Gwynedd ordered defendant's ejection from the court and five constables tackled him. Defendant struggled furiously and on the way out kicked and smashed a window pane in the vestibule. He was immediately arrested, and later appeared before the court on a charge of doing malicious damage to the courtroom to the value of 8*s*. Defendant limped into court having had two stitches inserted in his leg by a doctor in consequence of the injuries he sustained when he kicked the window. Defendant refused to plead to the charge and insisted that he wanted to go before a jury. In reply to the clerk, defendant said he had told the education authority that if he could not get away from Pwllheli court, who were prejudiced against him, and tried by a jury, he would smash another window. Defendant was fined 20*s*. upon the charge.

COMMENT

This little case throws an interesting light upon a remote area. Readers of the daily press have, upon many occasions in the last few years, read of the extreme lengths to which Welsh Nationalists were prepared to go in their anxiety to further their cause, but in the writer's experience it is but seldom that one learns of the reverse side of the picture.

Charges under s. 39 of the Education Act, 1944, although on the face of it innocuous, often lead to heated tempers and upon occasion require tactful handling. The parents who appear before the courts upon charges of failing to send their children regularly to school, or of failing to comply with a school attendance order contrary to s. 37 of the Act, are generally people in a humble station in life and of little education themselves. Such parents tend to believe, all too readily, stories that their children tell them as to the manner in which they have been humiliated before their school mates by a teacher or of the manner in which they have been maltreated by other children in the school and, with a mistaken sense of duty to their children, obstinately refuse to send their children back to school. Other parents take up a similar line upon religious grounds and here again strong emotions may easily be roused.

In the writer's view the court should never lose sight of the fact that the primary objective should be to secure a proper education for the child, and that this is not likely to be achieved if the parent is allowed to feel that he is martyring himself for the sake of his children. Where there is a risk of this happening, it is surely better to try and secure the co-operation of the parent by talking to him quietly, rather than to endeavour to secure compliance with the provisions of the Act by bludgeoning down the resistance of the parent.

There are, unfortunately, a number of parents to whom all appeals to reason are in vain and of course, when such proves to be the case (and it may well be that the case reported above falls into this category) there remains nothing for the court to do but to punish with severity the recalcitrant parent.

(The writer is indebted to Mr. Evan E. Robyns-Owen, B.A., clerk to the Pwllheli justices, for information in regard to this case.)

R.L.H.

PENALTIES

Westbury—February, 1954—attempting to obtain £180 by false pretences—fined £10. Defendant, a twenty-seven year old postman, stamped an empty envelope in the sorting office during the early morning of the day, and later, having got the football and racing results, placed the envelope on the sorting frame.

Marlborough magistrates' court—February, 1954—attempting to steal from unattended cars—two defendants, each sentenced to two months' imprisonment. Defendants, aged twenty and twenty-one, tried to steal a camera from a car by offering money to two school boys if they would get it. Defendants were termed " wicked and cowardly scallywags " by the magistrates.

Old Bailey—February, 1954—wounding with intent to cause grievous bodily harm—five years' imprisonment. Defendant, a twenty-six year old tailor, hit a police constable on the head with his own truncheon when an attempt was made to apprehend him.

Stratford—February, 1954—stealing £100 in notes—six months' imprisonment. Defendant, a council dustman, stole the money while collecting rubbish. He was questioned and searched but none of the money was found on him, but later as the dustcart on which he had been working was being driven through Dagenham, thirty-two £1 notes fell from it into the street.

Torpoint—February, 1954—assaulting and ill-treating two children—six months' imprisonment. Defendant, a twenty-four year old naval steward, struck his boys aged one year and nine months, and nine months, causing the baby a black eye.

Devon Assizes—February, 1954—motor manslaughter—two years' imprisonment—ten years' disqualification. Defendant, a twenty-seven year old R.A.S.C. corporal, had a clean record and a good military character.

York Assizes—February, 1954—(1) breaking and entering, (2) stealing National Savings Certificates, (3) obtaining money by means of a forged application for repayment of the Certificates—three years' imprisonment. Defendant, a fifty-three year old engineer, broke into the house of a brother who had helped him previously when he was in difficulties, and knowing his hiding place for his savings, took them all.

York Assizes—February, 1954—incest—three years' imprisonment.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review

SIR,

RACIAL DISCRIMINATION

In your issue of February 6 under *Law and Penalties in Magisterial and Other Courts*, you write in connexion with a case about the lighting of a parked car : " Defendant, a Negro, told the police . . ." I submit that the mention of defendant's race is both irrelevant and likely to give offence. You would, in other circumstances, hardly have written, " Defendant, an Irishman, . . ." or " Defendant, a Jew, . . ."

Yours faithfully,
BARBARA WOOTTON.

84 Napier Court,
Fulham, S.W.6.

[We thank Professor Wootton for her letter. We agree that in the case quoted, the mention of the defendant's race was irrelevant, but with great respect to our correspondent, we do not think it could have caused offence.—*Ed., J.P. and L.G.R.*].

FOUND OUT

With Discovery
Went the last hope of recovery.

J.P.C.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

LAY JUSTICES

Lt.-Col. M. Lipton (Brixton) asked the Secretary of State for the Home Department in the Commons whether he would make more use of the services of lay magistrates in the Metropolitan area.

The Secretary of State for the Home Department, Sir David Maxwell Fyfe, replied that there had not yet been sufficient experience to assess the effect of the Order he made last year under s. 11 (9) of the Justices of the Peace Act, 1949, specifying the classes of case which might be taken by lay justices in the County of London, but he would continue to keep the matter under review.

There were practical difficulties in the way of making wider use of the services of lay justices in London, but arrangements had also been made for lay justices to sit in a spare court room at Bow Street to hear cases in relief of the Metropolitan magistrates, and a domestic proceedings court, with a bench consisting of a Metropolitan magistrate and two lay justices selected from a panel, had been set up with jurisdiction to deal with cases arising in any part of the Metropolitan courts area or in the City of London.

Lt.-Col. Lipton : " Is the Home Secretary aware that many J.P.s in London feel that they are being treated as half-wits, incapable of dealing with minor cases which would help considerably to relieve the congestion and delay which prevails in so many magistrates' courts at the present time ? "

Sir. D. Maxwell Fyfe : " I hope that I may have relieved the troubled feelings of anyone with that idea. There is no foundation for that view being held in responsible quarters. Apart from that, I will bear in mind what the hon. and gallant Gentleman says ".

Mr. E. L. Mallalieu : " Is the Home Secretary aware of the continued need to obviate the delays which result from successive remands ? Has he forgotten that it is still possible for a case to be remanded from week to week, being heard perhaps for only a quarter of an hour each day ? If justice is to be done it should also be done speedily ".

Sir. D. Maxwell Fyfe : " If the hon. Gentleman can give me details of a case of that sort I shall be very interested to look into it ".

HOMOSEXUALITY

Mr. G. Craddock (Bradford S) asked the Secretary of State for the Home Department if, pending his consideration of the general question of the law relating to sexual offences, he would introduce temporary legislation to safeguard public morale by preventing the publication by the Press of gross and unnecessary details in cases of homosexuality.

Sir David replied that he would bear that suggestion in mind in his consideration of the general question. He agreed that it was a matter of great importance, but there were always two aspects which had to be considered. One was the rights of the persons concerned, and the other was the due and public administration of the law.

Lt.-Col. Lipton asked whether Sir David was aware that the Magistrates' Association, the British Medical Association and the Church of England Moral Welfare Council had put forward well-considered and constructive proposals to help to remove some of the anomalies and irrational humbug which surrounded certain aspects of the law.

Sir David replied that he had naturally considered the proposals. He would make a statement when he was in a position to do so. The matter was not being pigeonholed.

U.S. SERVICEMEN AND DEBTS

Mr. R. W. Sorensen (Leyton) asked the Secretary of State for Foreign Affairs, in view of a small number of cases where members of United States forces in this country had contracted debts which they had left unpaid on returning to the United States and had thus left the creditors without redress, whether he would seek to make an arrangement with the United States authorities to secure the payment of such debts.

The Under-Secretary of State for Foreign Affairs, Mr. A. Nutting, replying in the negative, said that, provided the man concerned was still in the forces, and provided the debt was admitted or had been reduced to judgment, it was always open to the creditor in this country to seek the assistance of the U.S. Service authorities here or in the United States in obtaining satisfaction.

Wilful failure to pay an undisputed debt, or a debt which had been reduced to judgment in this country, was an offence under U.S. military law and anyone who was still a member of the U.S. military forces could be subject to disciplinary action if they still refused to pay that debt. Her Majesty's Government would lend assistance where necessary.

He added that there was no difference of principle between an American serviceman going back to America without paying a debt and any other foreigner who left this country without paying a debt.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, March 2

INDUSTRIAL DISEASES (BENEFIT) BILL, read 2a.

Thursday, March 4

CIVIL DEFENCE (ELECTRICITY UNDERTAKINGS) BILL, read 2a.

THE LAST WORD

" Assassination," says George Bernard Shaw, " is the extreme form of censorship ". Highly-coloured as it is, this aphorism yet contains more than a modicum of truth. Criticism is apt to infuriate and drive to violence the very people who are most anxious to propagate their own opinions and to win public support and applause, whether their performances are obtruded upon the public at the hustings, in the picture-gallery or on the concert-platform, on stage or screen or over the air, in the pulpit or in a leading article. It is one of the many paradoxes of human nature that he who is foremost in pointing to the mote in his brother's eye is the most reluctant to consider the beam in his own, and most intolerant of the activities of those audacious persons who venture to draw attention to his own defects of vision. The odd thing is that this is a fault by no means confined to second-rate minds ; many of those whom history calls great have suffered, consciously or unconsciously, from this blind spot, and have been led by prejudice into the very excesses which they find intolerable in their neighbours.

History and contemporary events afford many examples. All over the world the reasoned analysis and discussion of religious and political dogma have been met with the taunt of heresy or subversion ; the literary, dramatic or musical critic is scornfully dismissed as a philistine ; opposition to journalistic sensationalism, or to vulgar prying into the intimacies of private life, is stigmatized as an attack on the freedom of the press. Those persons and organizations who are most callous and indifferent to the feelings of others are always the most sensitive to any strictures upon their own conduct and motives. And, in this connexion as in many others, all power, as Acton pointed out, tends to corrupt. The persecuted and downtrodden of today are the oppressors and exploiters of tomorrow.

The English law of defamation has developed, in some directions, on common-sense principles, but there is still room for reform. The defences of fair comment and of absolute and qualified privilege have become so hedged in with technicalities that they are apt to produce almost as much injustice as they avoid, and many of the distinctions between libel and slander are anachronistic and absurd. Recent trends in legislation and recommendations for reform are liable to reinforce the big battalions—the trade unions, the political parties—the film and broadcasting monopolies and the newspapers—at the expense of the solitary fighter for unpopular causes. Such decisions as *Turner* (*otherwise Robertson*) v. *Metro-Goldwyn Mayer Pictures, Ltd.* [1950] 1 All E.R. 449 and (in another connexion) *Said* v. *Butt* [1920] 3 K.B. 497, though unexceptionable in point of law, are examples of this kind.

A recent case at Bow Street Magistrates' Court provides an excellent illustration of the principle behind Shaw's epigrammatic exaggeration. The first (and only) performance of a new play at a London theatre had just concluded, and the audience were thankfully streaming out into the *foyer*. Two of its members expressed themselves, in no unmeasured terms, on the demerits (as they saw them) of the play and the performance they had sat through for the past couple of hours. One of them (as reported) gave utterance to the opinion that it was " a disgrace to the West End that people should be ' dragged in ' to see this play by seductive advertisements ", and expressed the forlorn wish that he might have his money back. The second, bolder and more vivid in his language, observed that the performance of a certain leading lady was " poisonous " ; there was a conflict of evidence on the question whether he had added the picturesque but unkind comment that " she ought to have been strangled at birth." We cannot take sides in the controversy, as we did not attend the play and we have never had the pleasure of seeing the actress in question ; but the sentiments expressed have been, spoken or unspoken, not infrequently on our lips after some of our visits to contemporary drama. Unfortunately for the two critics, their indignation got the better of their discretion, and their remarks were made to, or in the hearing of, the leading lady's husband, who had been following her histrionic activities in rapt fascination. There was no evidence that either of her detractors had the slightest idea of the identity of their listener until, without stopping to inquire whether the words used were, or were not, a fair and honest expression of opinion made without malice on a matter of public interest, he knocked down, without more ado, that one of them who had, belatedly but forcibly, wished for her career an anticipatory and violent termination.

To the plea of provocation, in such cases as this, there is one obvious answer. While it is accepted that " those who live in glass-houses should not throw stones ", there is also the corollary that those whose activities are liable to be the target for stones should not live in glass-houses. One man who has heeded the lesson of that corollary is Mr. Harry Mills, head-porter in a block of flats in Kensington, whose particular addiction is to the thing known as a " piano-accordion ". We have no strong feelings against this instrument as such ; in its proper setting, and played with proficiency and abandon, it may enliven the gaiety of a café in Montmartre, or intensify the romantic beauty of moonlight in the Mediterranean. But in a block of flats, between the hands of a devoted student who seeks *expertise* by practising the diatonic and chromatic scales for hours at a time, its charms are apt to pall. That is why Mr. Mills, wiser than most of his kind, has shunned the limelight of publicity upon his chosen avocation. In his basement flat he has installed a recent purchase from H.M. Postmaster General—a second-hand telephone-kiosk, indoor type, fully sound-proofed. Snugly ensconced within this refuge, the capacity of which is just sufficient to accommodate his instrument and himself, this modern Orpheus can practice to his heart's content. His ancient forbear, who " drew trees, stones and floods " to follow him as he tuned his lute, nevertheless played to unwilling hearers once too often, and came to a bad end in consequence. Mr. Mills is content to achieve self-expression and satisfy the music in his soul in solitude and safety, avoiding criticism and provocation alike. Censorship, whether in its extreme or any other form, is not for him ; he enjoys the inestimable advantage, given to few artists, of having the last word.

A.L.P.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Children and Young Persons—*Child exchanging fireworks for old clothes—Explosives Act*, 1875, *ss.* 30 *and* 31—*Public Health Act*, 1936, *s.* 154.

A hawker, with a van, gave fireworks, in exchange for old clothes, to a child under the age of thirteen years, in the street. It seems that the action is caught by s. 154 of the Public Health Act, 1936, but a doubt arises as to whether there is "sale" within the meaning of s. 31 of the Explosives Act, 1875. If the answer is that s. 31 also applies, would it be possible to convict for each offence, or should the offence under the Explosives Act be treated, in the circumstances, as an alternative to that under the Public Health Act. If it is considered that the act is not a sale, within s. 31, presumably the act is an offence under s. 30—"Hawking, selling or exposing gunpowder for sale", which, if proved, may be treated as an offence punishable separately from, and additional to, the information laid under s. 154 of the Public Health Act, 1936.

SUBTILE.

Answer.

The exchange does not, in our opinion, constitute a sale, but a transaction of barter. At 29 *Halsbury* 6 it is stated: "It is clear, however, that statutes relating to sale would have no application to transactions by way of barter". Section 31, *supra*, therefore does not apply. We agree that s. 154 of the Public Health Act, 1936, applies, but we doubt whether s. 30 of the Explosives Act, 1875, also applies. The definition of hawker in the Hawkers Act, 1888, seems to indicate that hawking means selling or exposing for sale.

2.—Electricity—*Cable in highway—Alleged inadequate protection.*

We are concerned in a case where a claim is being made for damage to an electrical machine alleged to be due to a power cut, caused through a metal pin being driven into the ground and piercing a main cable. Can you tell us if there are any orders or regulations relating to the depth which cables should be laid under a public thoroughfare or elsewhere and as to any protective tiles or covering?

ELLDEPTH.

Answer.

We are advised that an electric cable is in practice protected in such a situation either by armour forming part of it, or by a separate covering such as the query suggests. Where the cable is of the armoured type, its "standard of construction" must by reg. 12 of the Electricity Regulations, 1937, be as prescribed in the appropriate B.S.S., which is B.S. 480. There is at present no B.S.S., though we believe one is being prepared, for covering not forming part of the construction of the cable itself. There appears to be nothing in the Electricity Regulations, or in the Clauses Acts, which otherwise affects the query before us. This being the legal position, it seems to us to be a "jury" question, whether there was any negligence, on the part of the undertakers, or other ground of holding them liable.

3.—Employment of Young Persons—*Definition of "Night".*

Section 1 (3) of the Employment of Women, Young Persons and Children Act, 1920, prohibits the employment of young persons in any industrial undertaking at night. Article 3 of Part II of the schedule to the Act states that the term "night" signifies a period of at least eleven consecutive hours including the interval between 10 o'clock in the evening and 5 o'clock in the morning.

I should be obliged for your opinion as to whether the employment of young persons for a period less than eleven consecutive hours would constitute an offence if (1) an eight hour shift merely began or ended within the period between 10 *p.m.* and 5 *a.m.* or (2) the whole of an eight hour shift overlapped the said period.

T.R.D.

Answer.

The article is not very clearly expressed, but we take it to mean that there must be a rest period during the night of at least eleven hours, which shall include the period between 10 *p.m.* and 5 *a.m.* The employment suggested would not therefore be lawful.

4.—Highways—*Street cleansing—Snow clearance.*

The rural district council undertake the cleansing of streets in part of their area under s. 77 (1) of the Public Health Act, 1936, and the county council, as highway authority, contributes towards such expenditure under s. 77 (2) (b) of the said Act. In addition the rural district council carry out under delegated arrangements the gritting of certain roads and the cleansing of gulleys, for which the county council reimburse the full cost. The clearance of snow has now been considered, and I shall be glad to have your opinion as to whether the local authority can properly undertake the clearance of snow under s. 77 (1) of the Public Health Act, 1936, either with or without a contribution from the highway authority under s. 77 (2) (b) of the Act.

PILNIX.

Answer.

Section 26 of the Highway Act, 1835, makes it the duty of the highway authority as the successor to the surveyor of highways to remove any accumulation of snow from which impediment or obstruction arises. It seems also that expenses incurred in removing snow may be regarded as incurred in maintenance: *Amesbury Guardians* v. *Wilts Justices* (1883) 10 Q.B.D. 480. The removal of snow is therefore, in our opinion, not cleansing within s. 77 of the Act of 1936 and delegated powers to remove snow should be sought under Local Government Act, 1929.

5.—Land—*Acquisition by agreement—Lands Charges Acts.*

I have read with interest the article by Mr. J. A. Cæsar, 117 J.P.N. 774, but I cannot follow him in his argument that acquisition by agreement of land required for the purposes of the Housing Act, 1936, must be effected under the powers of acquisition conferred by that Act and not under s. 157 of the Local Government Act, 1933. The article refers to the limitations imposed by s. 179 of the Local Government Act, 1933, where another enactment (in this case the Housing Act, 1936) empowers a local authority to acquire land, and states that in such cases the transaction must be effected under those provisions and not under the Act of 1933. The Acquisition of Land (Authorisation Procedure) Act, 1946, as a result of s. 6 (1) and sch. 4, removes the limitation which was contained in s. 179 (*g*) of the Local Government Act, 1933, and therefore I submit that acquisition by agreement may be effected under s. 157 of the Local Government Act, 1933, or under the power contained in this case in the Housing Act, 1936.

ARTEMUS.

Answer.

This is not so. Section 6 of, and sch. 4 to, the Act of 1946 say that para. (*g*) in s.179 of the Act of 1933 shall cease to have effect in relation to the compulsory purchase of land: *vide Lumley's* italic note at p. 1886, and P.P. 1 at 116 J.P.N. 284. That paragraph still affects purchase by agreement.

6.—Licensing—*Occasional licence—Holder not bound by provisions of Licensing Act*, 1953, *s.* 127.

I shall be very much obliged if you will let me have your opinion on the following licensing matters.

Section 129 of the Licensing Act, 1953, restricts the supply of intoxicating liquors to young persons for consumption on licensed premises and it also restricts young persons buying or attempting to buy intoxicating liquor to be consumed on licensed premises or also persons from buying or attempting to buy intoxicating liquor for consumption in a bar in any licensed premises by a person under eighteen.

Section 127 of the Act restricts persons under eighteen from being employed in bars.

If the holder of a justices' licence obtains an occasional licence is he subject to the restrictions of the above two sections of the Act in view of s. 148 (5) which specifies only certain sections of the Licensing Act, 1953, and s. 12 of the Licensing Act, 1872 (relating to Public Order) as being applicable to the holder of an occasional licence as they apply to the holder of a justices' licence?

NESCIT.

Answer.

The holder of an occasional licence is not bound by the provisions of the Licensing Act, 1953, s. 127 (employment of persons under eighteen in bars) or s. 129 (supplying intoxicating liquor to young persons) or, indeed, by any of the provisions of the general licensing law not mentioned in s. 148 (5) of the Act.

The reason for the anomalous situation is that the Licensing Act, 1953, is a consolidating Act which was passed in accordance with the procedure contained in the Consolidation of Enactments (Procedure) Act, 1949, without debate in Parliament, and no substantive law not contained in the Acts which were in process of consolidation could be included in the new enactment.

7.—Licensing—*Provisional licence—Procedure where licence granted in previous years has hitherto been renewed annually.*

My licensing justices in the past few years have made a number of provisional grants under the Licensing (Consolidation) Act, 1910. It has been the practice at each successive Brewster Session for the brewery company concerned to apply for the renewal of the grants. Each year the grants have been renewed and have been endorsed to the effect that they are renewed, and part of that endorsement reads: "That the said grant shall not be of any validity until it has been duly declared to be final by an order of the licensing justices and shall be in force from the day on which it is declared final until the 5th day of April, 1954".

The question has now arisen as to whether it is necessary in view of s. 10 (2) of the Licensing Act, 1953, for the brewery companies to renew these grants. It has been represented to me that since the endorsement on the grant in effect authorizes renewal up to April 5, 1954, application should be made at the Brewster Sessions, 1954, for a renewal of the grant to bring such grant within the scope of s. 10, and that thereafter no formal application for renewal is necessary. The Act however states that " . . . until the grant is declared final the licence shall not require renewal ".

In view of the endorsement made on the grants, I do not think it is altogether free from doubt that it will not be necessary to apply at the Brewster Sessions, 1954, and I should be glad of your opinion in this matter. I personally incline to the view that the brewery companies should apply for the renewal so as to bring the grants within s. 10 of the 1953 Act and thereafter no application for renewal is necessary.

NEJEL.

Answer.

Section 10 (2) of the Licensing Act, 1953, was inserted into the law to remove doubts which hitherto had existed and to establish a uniformity in practice. No provision is made to meet a case such as that outlined by our correspondent. Out of abundance of caution, we agree with our correspondent that it will be good for the licences to be considered at the next brewster sessions with a view to the substitution for " 1954 " of the phrase " then next ensuing ".

8.—Road Traffic Acts—*Taking and driving away without owner's consent as a summary and an indictable offence—Time limit for laying information—Venue.*

Your valued opinion on the following would be appreciated :

Section 28 of the Road Traffic Act, 1930, provides that a person convicted of an offence of unauthorized taking of a motor vehicle is liable

(*a*) On *summary conviction* to imprisonment for a term not exceeding three months, etc.

(*b*) On conviction *on indictment* to imprisonment for a term not exceeding twelve months, etc.

A footnote to s. 28 in *Halsbury's Statutes* (vol. 24, p. 599) states " This is an offence to which the Criminal Justice Act, 1948, s. 28, applies."

Section 28 of the Criminal Justices Act, 1948, has been revoked and the provisions in the main have been re-enacted in s. 18 of the Magistrates' Courts Act, 1952. The latter deals with offences triable on indictment or summarily, and in subs. (1) speaks of offences which are " both an indictable offence and a summary offence." It would seem, therefore, that an offence of unauthorized taking of a motor vehicle is a summary offence and an indictable offence.

Section 113 (1) of the Road Traffic Act, 1930, states " Save as otherwise expressly provided, all offences under this Act shall be prosecuted under the Summary Jurisdiction Acts." No express provisions are contained at s. 28 of the Road Traffic Act, 1930, and it would appear that offences under that section are, therefore, to be prosecuted under the Summary Jurisdiction Acts.

Section 104 of the Magistrates' Courts Act, 1952, contains provisions formerly in s. 11 of the Summary Jurisdiction Act, 1848, providing a limitation of time of six months in regard to proceedings before a magistrates' court " from the time when the offence was committed, or the matter of complaint arose."

In view of the information outlined above, do you consider

(1) That an offence of unauthorized taking of a motor vehicle under s. 28 of the Road Traffic Act, 1930, is a summary offence and an indictable offence ?

(2) That a person charged with an offence under s. 28 cannot be dealt with summarily unless the information was laid within six months of the commission of the offence ?

(3) That the six months' limitation does not apply if it is intended that the offender should be dealt with on indictment ?

The question of jurisdiction limiting venue of trial of summary offences is dealt with under ss. 2 and 3 of the Magistrates' Courts Act, 1952, and this matter is apparently linked with the points I have raised above.

JE-SEE-N-EL.

Answer.

We think that the provision in s. 28 of the 1930 Act that a person offending against the section is liable on conviction on indictment to certain penalties is an " express provision otherwise " within the meaning of s. 113 (1).

Our answers are:

(1) Yes, and the procedure is regulated by s. 18 of the Magistrates' Courts Act, 1952.

(2) We agree.

(3) We agree, and the procedure under s. 18 (3) (*ibid.*) cannot then be adopted.

(4) So far as venue is concerned s. 2 (4) (*ibid.*) is relevant.

If a court has jurisdiction to start to hear the case under s. 18 (1) (*ibid.*) then it has jurisdiction, *so far as venue is concerned* to change to summary trial under s. 18 (3).

9.—Small Dwellings Acquisition Acts—*Mode of making payment by instalments.*

(*a*) Of the following which is the correct method of making payments by instalments in respect of a loan under the Small Dwellings Acquisition Acts in the light of s. 22 (*e*) of the Housing Act, 1923 : (i) To include eighty *per cent* of the site value in the first payment ; (ii) When making the first payment to allow eighty *per cent* of the value of the work done plus the full value of the land ; (iii) To take the gross value of house and land and make payments at eighty *per cent*, so that the borrower in effect receives payment for the land in instalments as the constructional works proceed.

(*b*) Is it considered that the phrase " the completion of the house " in s. 22 (*e*) of the Act of 1923 includes such items as floor finishes, interior and exterior decoration, paths, fences, driveways, and outbuildings ? If so presumably the final payment of the outstanding twenty *per cent* should be withheld until these items have been completed.

PURQUO.

Answer.

(*a*) In our opinion method (iii) is the proper one.

(*b*) Yes, in our opinion, if these are matters forming part of the security on which the money is to be advanced.

10.—Truck Acts—*Lost protective clothing—Deductions from dustmen's wages.*

My council supply their dustmen with protective clothing when they are engaged and this clothing is surrendered when a man leaves the council's service. I have recently had an instance where a man had lost part of his protective clothing and it was suggested that the cost of its replacement should be deducted from his wages. I advised against this course on the ground that to do so would be to contravene the Truck Acts. In my opinion the dustmen should, when supplied with protective clothing, be called upon to sign an agreement to pay for its loss or damage, and then when they do lose or damage clothing they should be given written particulars, at the same time as the deduction is made from wages. Do you agree ?

SOIL.

Answer.

We agree, on the ground that it is necessary to comply with s. 1 of the Truck Act, 1896.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

COUNTY BOROUGH OF BURY

Appointment of Assistant Solicitor

APPLICATIONS are invited from Solicitors for the appointment of Assistant Solicitor. Salary A.P.T. Va (£650—£710) rising to A.P.T. VII (£735—£810) after two years' admission. Previous Local Government experience will be an advantage but is not essential.

Applications, together with copies of two recent testimonials and endorsed "Assistant Solicitor," must reach me not later than March 22, 1954.

EDWARD S. SMITH,
Town Clerk.

Town Hall,
Bury.
March 6, 1954.

BOROUGH OF CHATHAM

Appointment of Committee and Legal Clerk

APPLICATIONS are invited for the post of Committee and Legal Clerk in Grade A.P.T. III in the Town Clerk's Department.

Full particulars of the appointment can be obtained from the undersigned by whom applications (no forms issued) must be received not later than March 29, 1954.

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Town Clerk.

Town Hall,
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CITY OF YORK

Appointment of Chief Constable

APPLICATIONS are invited for the above appointment. The salary will be at the rate of £1,350 per annum rising by annual increments of £50 to £1,500. The successful applicant will also receive the usual allowances permitted under the Police Regulations, together with uniform and car allowances.

Further details may be obtained from the undersigned, to whom all applications for the appointment must be received not later than March 31, 1954.

T. C. BENFIELD,
Town Clerk.

Guildhall,
York.

CITY OF WINCHESTER

Deputy Town Clerk and Deputy Clerk of the Peace

APPLICATIONS are invited from Solicitors for the appointment of Deputy Town Clerk and Deputy Clerk of the Peace. Inclusive salary (Grades VIII and IX) £785—£960. It is anticipated that housing accommodation will be let to the person appointed if required.

Applications, giving details of experience and present and previous appointments, together with the names of three persons to whom reference may be made, must reach me by March 27, 1954.

R. H. McCALL,
Town Clerk.

Guildhall,
Winchester.

NORTHUMBERLAND COMBINED PROBATION AREA

Appointment of Male Probation Officer

APPLICATIONS are invited for the appointment of a whole-time Male Probation Officer for the No. 4 District of the Combined Area (East Castle Ward, Tynemouth and Wallsend).

Applicants should be trained or possess experience in probation or other social work, and should be not less than twenty-three or more than forty years of age, except in the case of whole-time serving officers and persons who have satisfactorily completed a course of training approved by the Secretary of State. The appointment will be subject to the Probation Rules, 1949 and 1952, and the Probation Officers Superannuation Rules. The salary and allowances will be in accordance with the scale prescribed by the Probation Rules and the person appointed will be required to pass a medical examination and reside near Tynemouth.

Forms of application may be obtained from the undersigned and application, accompanied by a copy of one testimonial and the names and addresses of two referees, must be received by me not later than March 27, 1954.

E. P. HARVEY,
Clerk of the Peace.

County Hall,
Newcastle-upon-Tyne 1.
March 9, 1954.

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ESHER—W. J. BELL & SON, Chartered Surveyors, Auctioneers and Estate Agents, 51 High Street, Esher. Tel. 12.

GUILDFORD—CHAS. OSENTON & CO., High Street. Tel. 62927/8.

SURBITON—E. W. WALLAKER & CO., F.A.L.P.A., Surveyors, Auctioneers, Valuers and Estate Agents, 57 Victoria Road, Surbiton. Tel. ELMbridge 5381/3.

SUSSEX

BOGNOR REGIS, CHICHESTER, SELSEY & DISTRICT—CLIFFORD E. RALFS, F.A.L.P.A., Auctioneer, Estate Agent, Surveyor, Knighton Chambers, Aldwick Road, Bognor Regis. (Tel.: 1750).

BRIGHTON & HOVE—H.D.S. STILES & CO., Chartered Surveyors, Chartered Auctioneers and Estate Agents, 101 Western Road, Brighton 1. Tel. Hove 35281 (3 lines). And at London.

GLAMORGAN COMBINED PROBATION AREA

Appointment of Male Probation Officer

APPLICATIONS are invited for the above full-time appointment. Applicants must be not less than twenty-three nor more than forty years of age, except in the case of serving officers. The appointment and salary will be in accordance with the Probation Rules, and the salary will be subject to superannuation deductions.

The successful applicant will be required to pass a medical examination.

Application, on forms to be obtained from the undersigned, must be received not later than March 28, 1954.

RICHARD JOHN,
Clerk of the Combined Area Probation Committee.

Glamorgan County Hall,
Cardiff.

ESSEX MAGISTRATES' COURT COMMITTEE

Appointment of Part-time Clerk to the Justices

APPLICATIONS are invited for the appointment of a Part-time Clerk to the Justices for the Billericay Petty Sessional Division. Applicants must be qualified in accordance with Section 20 of the Justice of the Peace Act, 1949. Office accommodation and staff will be provided. Commencing salary will be between £650 and £800 according to qualification. Applications, stating age, present position, qualifications and experience, together with the names of two referees, should reach the undersigned not later than fourteen days after the appearance of this advertisement.

W. J. PIPER,
Clerk of the Committee.

Office of the Clerk of the Peace,
Tindal Square,
Chelmsford.

Printed in Great Britain by R. J. Acford Ltd., Industrial Estate, Chichester, Sussex, and published each Saturday by the Proprietors, Justice of the Peace Ltd., at the Office of the "Justice of the Peace and Local Government Review," Little London, Chichester, Sussex. Registered at the G.P.O. as a newspaper. Saturday, March 13, 1954. Price 2s.3d. with Reports, post free 2s. 5d.; without Reports 1s. 3d., post free 1s. 5d. Subscription rates: £6 per annum with Reports; £3 10s. per annum without Reports.